ACCESS
ACCÈS

PROCEEDINGS OF THE
CLIC FORUM ON ELECTRONIC
DISTRIBUTION OF JUDGMENTS

ACTES DE LA TRIBUNE DU CCDJ
SUR LA DIFFUSION ELECTRONIQUE
DES DECISIONS

CANADIAN LAW INFORMATION COUNCIL
CONSEIL CANADIEN DE LA DOCUMENTATION JURIDIQUE

THANKS

The Canadian Law Information Council (CLIC) wishes to thank the following for their ongoing support of its research and development work:

* Federal Department of Justice * The governments of Newfoundland, Nova Scotia, New Brunswick, Prince Edward Island, Québec, Ontario, Saskatchewan, Alberta, British Columbia, Yukon and Northwest Territories * Law Society of Newfoundland * Nova Scotia Barristers' Society * Law Society of New Brunswick * Law Society of Prince Edward Island * *Barreau du Québec* * *Chambre des notaires du Québec* * Law Society of Upper Canada * Law Society of Manitoba * Law Society of Saskatchewan * Law Society of Alberta * Law Society of British Columbia * Yukon Law Society * Law Society of the Northwest Territories * Law Foundation of Newfoundland * Law Foundation of Nova Scotia * Law Foundation of New Brunswick * Law Foundation of Ontario * Law Foundation of Prince Edward Island * Law Foundation of Saskatchewan * Alberta Law Foundation * Law Foundation of British Columbia * Yukon Law Foundation * Law Foundation of the Northwest Territories * Donner Canadian Foundation * Canadian Association of Law Libraries * Canadian Bar Association * Canadian Association of Law Teachers

MERCI

Le Conseil canadien de la documentation juridique (CCDJ) désire remercier les organismes suivants de l'appui indéfectible qu'ils ont toujours manifesté à l'endroit de ses travaux de recherche et de développement.

* Le ministère de la Justice du Canada * Les gouvernements de Terre-Neuve, de la Nouvelle-Écosse, du Nouveau-Brunswick, de l'Île-du-Prince-Édouard, du Québec, de l'Ontario, de la Saskatchewan, de l'Alberta, de la Colombie-Britannique, du Yukon et des Territoires du Nord-Ouest * la *Law Society of Newfoundland* * la *Nova Scotia Barristers' Society* * la Société du Barreau du Nouveau-Brunswick * la *Law Society of Prince Edward Island* * le Barreau du Québec * la Chambre des notaires du Québec * la Société du Barreau du Haut-Canada * la Société du Barreau du Manitoba * la *Law Society of Saskatchewan* * la *Law Society of Alberta* * la *Law Society of British Columbia* * la *Yukon Law Society* * la *Law Society of the Northwest Territories* * la *Law Foundation of Newfoundland* * la *Law Foundation of Nova Scotia* * la Fondation juridique du Nouveau-Brunswick * la Fondation juridique de l'Ontario * la *Law Foundation of Prince Edward Island* * la *Law Foundation of Saskatchewan* * la *Alberta Law Foundation* * la *Law Foundation of British Columbia* * la *Yukon Law Foundation* * la *Law Foundation of the Northwest Territories* * la Fondation canadienne Donner * l'Association canadienne des bibliothèques de droit * l'Association du Barreau canadien * l'Association canadienne des professeurs de droit

MISSION

CLIC promotes a better understanding of the law in Canada by improving access to legal information. CLIC is a non-profit organization serving both the Canadian legal community and the public.

MISSION

Le CCDJ travaille à promouvoir une meilleure connaissance du droit au Canada en favorisant l'accès à l'information juridique. Le CCDJ est un organisme sans but lucratif au service de la communauté juridique canadienne et du grand public.

ACCESS *ACCÈS*

Proceedings of the CLIC Forum on Electronic Distribution of Judgments

Actes de la tribune du CCDJ sur la diffusion électronique des décisions

Ottawa

20 and 21 November 1987
les 20 et 21 novembre 1987

Canadian Law Information Council
Conseil canadien de la documentation juridique

Canadian Cataloguing in Publication Data

CLIC Forum on Electronic Distribution of Judgments (1987 : Ottawa, Ont.)

Access : Proceedings of the CLIC Forum on Electronic Distribution of Judgments = Accès : Actes de la Tribune du CCDJ sur la diffusion électronique des décisions

Text in English and French.
ISBN 0-921481-24-1

1. Law--Canada--Cases--Data processing--Congresses. 2. Information storage and retrieval systems--Law--Canada--Congresses. 3. Legal research--Canada--Data processing--Congresses. I. Parker, Catherine II. Canadian Law Information Council. III. Title. IV. Title: Accès. V. Title: Proceedings of the CLIC Forum on Electronic Distribution of Judgments. VI. Title: Actes de la Tribune du CCDJ sur la diffusion électronique des décisions.

K87.C44 1987 348.71'04'0285 C88-090173-XE

Données de catalogage avant publication (Canada)

Tribune du CCDJ sur la diffusion électronique des décisions (1987 : Ottawa, Ont.)

Access : Proceedings of the CLIC Forum on Electronic Distribution of Judgments = Accès : Actes de la Tribune du CCDJ sur la diffusion électronique des décisions

Texte en anglais et en français.
ISBN 0-921481-24-1

1. Droit--Canada--Jurisprudence--Informatique--Congrès. 2. Systèmes d'information--Droit--Canada--Congrès. 3. Droit--Recherche--Canada--Informatique--Congrès. I. Parker, Catherine II. Conseil canadien de la documentation juridique. III. Titre. IV. Titre: Accès V. Titre: Proceedings of the CLIC Forum on Electronic Distribution of Judgments. VI. Titre: Actes de la Tribune du CCDJ sur la diffusion électronique des décisions.

K87.C44 1987 348.71'04'0285 C88-090173-XF

© Canadian Law Information Council
Conseil canadien de la documentation juridique

5th Floor/5 ième étage
161 ouest, avenue Laurier Avenue West
Ottawa, Ontario K1P 5J2
(613) 236-9766

ISBN 0-921481-24-1

TABLE OF CONTENTS / *TABLE DES MATIÈRES*

INTRODUCTION 1

INTRODUCTION 2

PROGRAMME OF THE CLIC FORUM 3

PROGRAMME DE LA TRIBUNE DU CCDJ 9

OPENING ADDRESS / *ALLOCUTION D'OUVERTURE*

James Donovan
Director of Data Systems, Supreme Court of the United States
(*directeur de l'informatique, Cour suprême des États-Unis*) 17

ONLINE PUBLISHING: PROBLEMS AND POSSIBILITIES /
LA PUBLICATION EN DIRECT : PROBLÈMES ET POSSIBILITÉS

Hugh Lawford, *QL Systems and Electronic Distribution of Judgments* 27

M^me^ Suzanne Paquet, *La Société québécoise d'information juridique : l'expérience québécoise* 35

M. Anne Foster, *Legal Databases: Adding Value By Adding Quality* 43

Professeur Ejan Mackaay, *La diffusion électronique de la jurisprudence - les systèmes documentaires vingt ans après* 51

QUALITY CONTROL AND OFFICIAL PUBLISHING /
LE CONTRÔLE DE LA QUALITÉ ET LES PUBLICATIONS OFFICIELLES

M^e Anne Roland, *Contrôle de la qualité : développements à la Cour suprême du Canada* 65

Gary P. Rodrigues, *Quality Control and Law Reporting* 73

Gordon Henderson, Q.C., *Quality Control and the* Ontario Reports 81

R.J. (Bob) Huggins, *Quality Control at Info Globe* 87

LUNCHEON ADDRESS / ***ALLOCUTION PRONONCÉE PENDANT LE DÉJEUNER***

Frank Iacobucci, Q.C.*/c.r.*
Deputy Minister of Justice and Deputy Attorney General of Canada
(sous-ministre de la Justice et sous-procureur général du Canada) 95

ELECTRONIC DISTRIBUTION BY COURTS AND TRIBUNALS /
LA DIFFUSION ÉLECTRONIQUE PAR LES TRIBUNAUX JUDICIAIRES ET ADMINISTRATIFS

Deborah E. Fry, *The Experience of Newfoundland* 103

Honourable Mr. Justice K. Peter Richard, *A Judicial Perspective* 109

Stephen Hanson, *The Canadian Bar Association: CBANET* 117

Martin Felsky, *Developing a Legal Information Policy for Canada: The Role of the Canadian Law Information Council* 125

ATTENDANCE LIST / ***LISTE DES PARTICIPANTS*** 131

INTRODUCTION

The Canadian Law Information Council (CLIC) is pleased to present the *Proceedings* of Access, the CLIC Forum on Electronic Distribution of Judgments. Held on 20 and 21 November 1987, in Ottawa, the CLIC Forum marked an important milestone for CLIC. For the first time since its beginnings in 1972, CLIC brought together, in a public setting, individuals representing a variety of interests in the legal community, to consider an issue of fundamental importance for the future of Canadian legal information policy -- the electronic distribution of judgments. The widespread interest in this new method of judgment distribution was abundantly illustrated by the over 100 participants who were in attendance from across the country.

CLIC was fortunate to have had the occasion to draw on the knowledge and expertise of so many talented individuals as guest speakers, panelists and moderators. Each brought a unique perspective to bear on the issue of electronic judgment distribution.

As the presentations collected in these *Proceedings* amply show, the advent of online publishing and distribution of judgments has brought with it exciting new possibilities for accessing primary legal information sources. Yet, at the same time, critical policy issues and practical concerns have been raised which cannot be ignored. The CLIC Forum was designed precisely to address these issues and concerns, and chart a course for the future of legal information policy in Canada.

I would like to thank all the Forum panelists and guest speakers for supplying the texts of their addresses for inclusion in these *Proceedings*. Each address appears in the language of presentation, with a brief summary in both English and French, to assist readers.

I would especially like to thank Michelle Brûlé of CLIC for her help in preparing these *Proceedings*, and for the many hours she spent in assisting with the organization of the Forum. A special thanks to Peggy Brûlé for her efforts in formatting and preparing the *Proceedings* for publication.

Catherine Parker
Coordinator, Research & Information Technology

INTRODUCTION

Le Conseil canadien de la documentation juridique (CCDJ) est heureux de présenter les *Actes* d'Accès, la Tribune du CCDJ sur la diffusion électronique des décisions. Tenue les 20 et 21 novembre 1987 à Ottawa, cette Tribune a constitué un jalon important pour le CCDJ. En effet, pour la première fois depuis sa fondation en 1972, le CCDJ convoquait une réunion publique de personnes représentant une variété d'intérêts dans la communauté juridique pour étudier une question d'importance fondamentale pour l'avenir du principe de l'information juridique au Canada -- la diffusion électronique des décisions. Les quelque 100 participants et plus venus de partout au pays pour assister à cette Tribune témoignent de l'intérêt considérable que suscite cette nouvelle méthode de diffusion des décisions.

Le CCDJ s'estime en effet très heureux d'avoir eu l'occasion de se prévaloir des connaissances et des spécialités d'un si grand nombre de conférenciers, de panelistes et d'animateurs talentueux. Chacun a fait part de sa vision unique de la diffusion électronique des décisions.

Comme les textes des exposés réunis dans ces *Actes* le prouvent amplement, l'avènement de l'édition et de la diffusion en direct des décisions entraîne des possibilités excitantes d'accès à des sources primaires d'information juridique. La Tribune a néanmoins donné lieu à la formulation d'importantes questions d'orientation et à des préoccupations d'ordre pratique qui ne peuvent être laissées pour compte. Cette Tribune du CCDJ avait précisément pour objet d'examiner ces questions et préoccupations et de tracer la voie pour l'élaboration d'une politique d'information juridique au Canada.

J'aimerais remercier tous les panelistes et conférenciers invités qui ont remis les textes de leurs exposés compris dans ces *Actes*. Chaque exposé est publié dans sa langue originale et accompagné d'un bref résumé en anglais et en français pour en faciliter la lecture.

J'aimerais remercier particulièrement Michelle Brûlé du CCDJ qui a participé à la préparation de ces *Actes* et des nombreuses heures qu'elle a consacrées à l'organisation de la Tribune. Un merci spécial également à Peggy Brûlé qui s'est chargée de la mise en page et de la préparation des *Actes* en vue de leur publication.

La coordonnatrice de la recherche et de l'informatique,
Catherine Parker

ACCESS

The CLIC Forum on ELECTRONIC DISTRIBUTION OF JUDGMENTS

PROGRAMME

FRIDAY, 20 NOVEMBER 1987 **7:00 p.m. to 9:00 p.m.**

REGISTRATION AND RECEPTION **RIDEAU ROOM, FOUR SEASONS HOTEL**
150 Albert Street, Ottawa

WELCOMING ADDRESS: *Jill Hamilton*, Chairperson, Canadian Law Information Council

OPENING ADDRESS: *James R. Donovan*, Director of Data Systems, United States Supreme Court, Washington, D.C.

Mr. Donovan has 24 years of experience in the information management field. For over eight years, he has been involved in applying computer technology to all facets of the justice system and has been responsible for directing and coordinating all computer activities at the Supreme Court.

SATURDAY, 20 NOVEMBER 1987

MOOT COURT, FAUTEUX HALL, FACULTY OF LAW, UNIVERSITY OF OTTAWA, 57 COPERNICUS STREET, OTTAWA

REGISTRATION **8:30 a.m. to 9:00 a.m.**

OPENING REMARKS: *John M. Benesh*, Executive Director, Canadian Law Information Council, Ottawa

Panel One: 9:00 a.m. to 10:30 a.m.

Online Publishing: Problems and Possibilities

This panel will look at developments in online publishing of judgments and the effects on traditional forms of publishing. The economic and legal issues raised by this form of judgment distribution will be discussed and consideration given to the future of law reporting online.

MODERATOR

David G. Barry
Barrister and Solicitor, Barry & O'Neil, Saint John, New Brunswick. Mr. Barry served as Chairman of CLIC in 1984-85, and has also served as Chairman of the CLIC Computers and Law Advisory Committee. He is currently on the CLIC Board of Governors and chairs the CLIC Law Reporting Committee.

PANELISTS

Hugh Lawford
President, QL Systems Ltd., and Professor of Law, Queen's University, Kingston, Ontario. Mr. Lawford is the founder of QUICKLAW and is a member of the CLIC Computers and Law Advisory Committee. In addition to providing access to legal databases of other publishers and of the Federal Government, QL Systems has recently begun offering the full text of superior court judgments from every province and territory except Quebec.

Suzanne Paquet
Executive Director, *Société québécoise d'information juridique,* Montreal. SOQUIJ is the Quebec Crown Corporation responsible for law reporting in that province. SOQUIJ offers online access to many legal databases, especially a full-text database of Quebec Supreme Court and Court of Appeal decisions. In addition, SOQUIJ distributes photocopies of the raw judgments for all decisions noted in its publications and databases.

M. Anne Foster
Vice-President, Electronic Information Services, Canada Law Book, Aurora, Ontario. Ms. Foster, who was formerly Director of Computers and Law at CLIC, is responsible for managing the CAN/LAW databases, which have recently been mounted on computers at Canada Systems Group in Ottawa. These include the headnotes to DLR, CCC, ACWS and WCB among others. CAN/LAW plans to offer full-text databases in the future.

Ejan Mackaay
Professor of Law at the University of Montreal specializing in law and information technology. He was involved in the founding of the DATUM project, a pioneering effort at legal information retrieval in Quebec. He is the author of numerous articles in the field. Professor Mackaay was also the first director of SOQUIJ.

Coffee Break **10:30 a.m. to 11:00 a.m.**

Panel Two: **11:00 a.m. to 12:30 p.m.**

Quality Control and Official Publishing

The focus of this panel will be on the ways to ensure the quality of judgments distributed online and who is responsible for quality.

MODERATOR

Lillian MacPherson
Law Librarian, Faculty of Law, University of Alberta, Edmonton. Ms. MacPherson is trained as a lawyer and librarian, and has been responsible for teaching CALR to law students, among her other duties. Ms. MacPherson chairs the CLIC Research and Legal Literature Committee, serves on the CLIC Board of Directors and the Law Reporting Committee. She is also a past president of the Canadian Association of Law Libraries.

PANELISTS

Anne Roland
Ms. Roland is Editor-in-Chief, *Supreme Court Reports*, Ottawa. The Supreme Court of Canada and the Federal Court are the only Canadian courts which issue official reports.

Gary Rodrigues
Vice-President and Executive Editor, Carswell Legal Publications, Agincourt, Ontario. Mr. Rodrigues serves on the CLIC Law Reporting Committee as the representative of publisher members on Council.

Gordon Henderson, Q.C.
Barrister and Solicitor, Gowling and Henderson, Ottawa. Mr. Henderson is a Bencher of the Law Society of Upper Canada and chairs the Database Subcommittee of the Society's Library and Law Reporting Committee. The Committee oversees, among other things, the publication of the *Ontario Reports*. Among his many other accomplishments, Mr. Henderson is the editor of the *Canadian Patent Reporter* and was one of the original incorporators of the Canadian Law Information Council, serving in addition as its first chairman.

Bob Huggins
Regional Sales Manager for Eastern Canada, Info Globe, Ottawa. Mr. Huggins is a graduate of the University of Waterloo and has been with Info Globe for five years. Info Globe will be introducing a trademarks database on 1 January 1988, to complement its *Key Government Documents* database.

Forum Luncheon — 12:30 p.m. to 2:30 p.m.

LA BOUCHÉE, 85 HASTEY STREET, ROOM 116, UNIVERSITY OF OTTAWA

LUNCHEON ADDRESS: *Frank Iacobucci, Q.C.,* Deputy Minister of Justice and Deputy Attorney General of Canada

Among his many achievements, Mr. Iacobucci was Dean of Law at the University of Toronto and Vice-President and Provost of that University prior to assuming his current position of Deputy Minister and Deputy Attorney General of Canada. Mr. Iacobucci has also served as a member of the Ontario Securities Commission and as a member of the Canadian Institute of Advanced Legal Studies. He has also written a variety of articles, reports and papers and has contributed to several books.

Panel Three: — 2:00 p.m. to 3:30 p.m.

Electronic Distribution By Courts and Tribunals

Questions of who is responsible for online distribution, the costs involved, concerns for copyright and public access are some of the issues to be dealt with by this panel.

MODERATOR

Bob Franson
Professor at the Faculty of Law, University of British Columbia, Vancouver. Professor Franson is Chairman of the CLIC Advisory Committee on Computers and Law and is Director of the IBM/UBC Co-operative Computers and Law project.

PANELISTS

Deborah Fry
Associate Deputy Minister of Justice, Government of Newfoundland and Labrador, St. John's. Newfoundland is one of the first provincial jurisdictions to be sending Supreme Court judgments directly online to QL Systems.

Justice K. Peter Richard
Supreme Court of Nova Scotia, Trial Division, Halifax. Justice Richard has been conducting a computer project for the judiciary with the Canadian Centre for Justice Statistics and has personally transmitted his own judgments to QL Systems by modem.

Stephen Hanson
Senior Director of Communications, Canadian Bar Association, Ottawa. Mr. Hanson has been largely responsible for getting CBANET off the ground.

Martin Felsky
Director, Research and Information Technology, Canadian Law Information Council, Ottawa. Responsible for producing the *CLIC Guide to Computer Assisted Legal Research*; author of a number of articles including "Towards a Legal Information Policy for Canada" (1986) and "Evaluating Legal Information Systems" (1985).

Coffee Break **3:30 p.m. to 4:00 p.m.**

Discussion and Closing Remarks **4:00 p.m. to 5:00 p.m.**

ACCÈS

Tribune du CCDJ sur LA DIFFUSION ÉLECTRONIQUE DES DÉCISIONS

PROGRAMME

LE VENDREDI 20 NOVEMBRE 1987 **19 h à 21 h**

INSCRIPTION ET RÉCEPTION **SALON RIDEAU, HÔTEL QUATRE SAISONS**
150, rue Albert, Ottawa

MOT D'ACCUEIL *: Jill Hamilton*, présidente du Conseil canadien de la documentation juridique

ALLOCUTION D'OUVERTURE *: James Donovan*, directeur de l'informatique, Cour suprême des États-Unis, Washington, D.C.

M. Donovan possède 24 ans d'expérience dans le domaine de la gestion de l'information. Depuis plus de huit ans, il se consacre à l'application de l'informatique à toutes les facettes de l'administration de la justice et il est responsable de la direction et de la coordination de toutes les activités d'informatique à la Cour suprême.

LE SAMEDI 21 NOVEMBRE 1987

SALLE DU TRIBUNAL-ÉCOLE, FACULTÉ DE DROIT, PAVILLON FAUTEUX, UNIVERSITÉ D'OTTAWA, 85, RUE HASTEY, OTTAWA

INSCRIPTION **8 h 30 à 8 h 50**

REMARQUES PRÉLIMINAIRES : ***John M. Benesh***, directeur général du Conseil canadien de la documentation juridique, Ottawa

Panel 1. 9 h à 10 h 30

La publication en direct : problèmes et possibilités

Les participants se pencheront sur les progrès réalisés dans le domaine de la publication en direct des décisions et de leurs effets sur les formes traditionnelles de publication. On y discutera également des problèmes économiques et juridiques soulevés par cette technique de diffusion des décisions et il sera question de l'avenir de la publication juridique en direct.

ANIMATEUR

David Barry
Membre du cabinet Barry & O'Neil de Saint-Jean (N.-B.), M^e^ Barry est président du comité des recueils de jurisprudence du CCDJ et il est aussi membre du bureau des administrateurs du CCDJ. Par le passé, il a été président du comité consultatif d'informatique juridique du CCDJ. Notons également qu'il a été président du CCDJ en 1984-85.

PANELISTES

Hugh Lawford
Président de QL Systems (Kingston) et professeur de droit à l'Université Queen's. Il est aussi le fondateur de QUICKLAW et membre du comité consultatif d'informatique juridique du CCDJ. En plus d'offrir l'accès aux bases de données juridiques des autres maisons d'édition et à celles du gouvernement fédéral, QL Systems offre depuis peu le texte intégral des décisions des cours supérieures de toutes les provinces, sauf le Québec.

Suzanne Paquet
Directrice générale de SOQUIJ, société d'État québécoise responsable de la publication de la jurisprudence au Québec. SOQUIJ offre l'accès en direct à plusieurs banques de données, en particulier une banque de données en texte intégral de la Cour suprême et de la Cour d'appel du Québec. De plus, SOQUIJ vend les photocopies du texte intégral de tous les jugements rapportés dans les publications et les banques de données.

M. Anne Foster
Vice-présidente de la division des services électroniques de la société Canada Law Book. M^{me} Foster qui a déjà été directrice de l'informatique juridique au CCDJ est maintenant responsable de la gestion des bases de données CAN/LAW, lesquelles ont récemment été versées sur ordinateur chez Canada Systems Group, à Ottawa. Ces bases de données comprennent notamment les sommaires des DLR, CCC, ACWS et des WCB. CAN/LAW projette d'offrir dans l'avenir le texte intégral des décisions.

Ejan Mackaay
Professeur de droit à l'Université de Montréal. Il se spécialise dans le domaine du droit et de la technologie de l'information. Il a participé à la mise sur pied de DATUM, un projet pilote en matière de repérage de l'information juridique au Québec. Il a déjà publié plusieurs articles dans ce domaine. Notons également qu'il a été le premier directeur de SOQUIJ.

Pause-santé **10 h 30 à 11 h**

Panel 2. 11 h à 12 h 30

Le contrôle de la qualité et les publications officielles

Les discussions de ce panel porteront surtout sur la façon d'assurer la qualité des décisions diffusées en direct. On examinera également à qui revient la responsabilité du contrôle de la qualité.

ANIMATEURE

Lillian MacPherson
Bibliothécaire juridique à la faculté de droit de l'Université de l'Alberta. M^e^ MacPherson, qui a reçu une formation en droit et en bibliothéconomie, s'occupe notamment de l'enseignement de la recherche juridique assistée par ordinateur auprès des étudiants en droit. Elle est présidente du comité consultatif de recherche et de documentation juridiques du CCDJ, elle fait partie du bureau des administrateurs du CCDJ et du comité des recueils de jurisprudence. Elle est également ancienne présidente de l'Association canadienne des bibliothèques de droit.

PANELISTES

Anne Roland
M^e^ Roland est l'arrêtiste en chef du *Recueil des arrêts de la Cour suprême du Canada*. La Cour suprême du Canada et la Cour fédérale sont les deux seuls tribunaux canadiens qui publient le texte officiel de leurs arrêts.

Gary Rodrigues
Vice-président et rédacteur en chef à la société Carswell Legal Publications. Il fait également partie du comité des recueils de jurisprudence du CCDJ à titre de représentant des maisons d'édition.

Gordon Henderson, c.r.
Membre du cabinet Gowling et Henderson d'Ottawa. M^e^ Henderson est aussi membre du conseil général de la Société du Barreau du Haut-Canada et il préside le sous-comité des bases de données du comité de la bibliothèque et des recueils de jurisprudence de la Société. Ce comité s'occupe notamment de la publication des *Ontario Reports*.

Bob Huggins
Gérant régional des ventes à la société Info Globe. Diplômé de l'Université de Waterloo, M. Huggins travaille à la société Info Globe depuis cinq ans. Le 1er janvier 1988, cette société présentera à ses usagers une nouvelle base de données de marques de commerce, qui complètera la base des *Key Government Documents*.

Déjeuner — 12 h 30 à 14 h

LA BOUCHÉE, 85, RUE HASTEY, SALLE 116, UNIVERSITÉ D'OTTAWA

ALLOCUTION PRONONCÉE PENDANT LE DÉJEUNER : *Frank Iacobucci, c.r.*, sous-ministre de la Justice et sous-procureur général du Canada, Ottawa

Parmi ses nombreuses réalisations, M. Iacobucci a été doyen de la faculté de droit de l'Université de Toronto, ainsi que vice-président et vice-recteur de cette même Université avant d'assumer ses présentes fonctions de sous-ministre de la Justice et de sous-procureur général du Canada. En outre, M. Iacobucci a été membre de la Commission des valeurs mobilières de l'Ontario et membre de l'Institut canadien d'études juridiques supérieures. Il est l'auteur d'un grand nombre d'articles, de rapports et de mémoires et il a contribué à plusieurs ouvrages.

Panel 3. — 14 h à 15 h 30

La diffusion électronique par les tribunaux judiciaires et administratifs

Ce panel se perichera sur la question de savoir qui est responsable de la diffusion en direct; on y examinera aussi la question des coûts, du droit d'auteur et de l'accès du grand public.

ANIMATEUR

Robert Franson
Professeur de droit à l'Université de la Colombie-Britannique. Le professeur Franson est président du comité consultatif de l'informatique juridique du CCDJ et il est directeur du projet coopératif d'informatique juridique de la société IBM et de l'Université de la Colombie-Britannique.

PANELISTES

Deborah E. Fry
Sous-ministre associée, Ministère de la Justice de Terre-Neuve, St. John's. Terre-Neuve est l'une des premières circonscriptions qui diffuse en direct par l'intermédiaire de QL les décisions émanant de la Cour suprême de cette province.

L'honorable juge K. Peter Richard
Cour suprême de la Nouvelle-Écosse, division de première instance, Halifax. Le juge Richard dirige un projet d'informatique à l'intention des juges pour le Centre canadien de la statistique juridique et il transmet lui-même ses décisions à QL par modem.

Stephen Hanson
Directeur principal des communications à l'Association du Barreau canadien, Ottawa. M. Hanson a été l'un des principaux artisans de la mise sur pied de LEXIBAR.

Martin Felsky
Directeur de la recherche et de l'informatique, Conseil canadien de la documentation juridique, Ottawa. Responsable de la production de l'*Initiation à la recherche juridique assistée par ordinateur*, M. Felsky est l'auteur de plusieurs articles dans le domaine de l'informatique juridique dont "Towards a Legal Information Policy for Canada" (1986) et "Evaluating Legal Information Systems" (1985).

Pause-santé **15 h 30 à 16 h**

Discussion et mot de la fin **16 h à 17 h**

OPENING ADDRESS

* * *

ALLOCUTION D'OUVERTURE

OPENING ADDRESS/*ALLOCUTION D'OUVERTURE*

James Donovan

• • •

SUMMARY

James Donovan, Director of Data Systems, Supreme Court of the United States, opened the Forum with an informative account of developments in the Court respecting the electronic distribution of judgments.

Providing an overview of the Supreme Court's progress in automating its activities, Mr. Donovan emphasizes that technological innovation has had an impact on all functions of the Court. Mr. Donovan remarks that the Court anticipates sending judgments electronically to an online retrieval system capable of direct access by users.

While citing advantages of electronic distribution, such as reducing publication costs and providing judgments quickly, Mr. Donovan also raises a series of policy issues that must be addressed: first, an obligation to make the information accessible to the public, second, the proper funding of the system and third, an obligation to conserve official government records.

In developing information distribution systems, Donovan argues that agencies, such as the Supreme Court of the United States, must take into consideration the needs of end users. Agencies must also explore creative methods of financing the systems, considering such issues as to whether contractors should operate the systems in exchange for special access to the data, and how user charges can be introduced which reflect the cost of providing the information but are not prohibitive for users. At the same time, agencies must be mindful of the need to comply with laws concerning the archival of official government records.

RÉSUMÉ

James Donovan, directeur de l'informatique à la Cour suprême des États-Unis, inaugure le programme de la Tribune avec un récit informatif des développements survenus à la Cour concernant la diffusion électronique des décisions.

Dans son aperçu des progrès réalisés par la Cour suprême dans le domaine de l'automatisation, M. Donovan souligne le fait que l'innovation technologique a eu des répercussions sur toutes les fonctions de la Cour, ajoutant que celle-ci a hâte de diffuser ses décisions électroniquement afin d'en assurer l'accès direct aux utilisateurs.

M. Donovan énumère les avantages de la diffusion électronique, comme la réduction des frais de publication et la diffusion rapide des décisions, mais soulève également certaines questions d'orientation qu'il faudra considérer : d'abord, l'obligation de rendre l'information accessible au public; deuxièmement, le financement adéquat du système et troisièmement, l'obligation de conserver des archives gouvernementales officielles.

Lorsqu'ils élaboreront des systèmes de diffusion de l'information, certains organismes, comme la Cour suprême des États-Unis, devront tenir compte des besoins des utilisateurs, soutient M. Donovan. Ces mêmes organismes devront également rechercher des méthodes innovatrices de financement, sans oublier certaines questions comme celle de savoir si les entrepreneurs des systèmes devraient les exploiter en échange d'un accès spécial aux données et si certains frais de diffusion de l'information peuvent être exigés des utilisateurs sans être excessifs. Il faut également que les organismes n'oublient pas la nécessité de respecter les lois sur l'archivage des dossiers gouvernementaux officiels.

* * *

Thank you and good evening. I wish to express my appreciation for the invitation to join you in the conference. I have been fortunate to attend conferences here on two previous occasions and look forward to this being an equally enjoyable experience.

At the Supreme Court of the United States, we have been the recipient of numerous requests to supply our Court's opinions to various parties via an online telecommunications interface. Before I address that issue, however, I would like to tell you a little about the progress of automation in general at the Court, especially since that is my area of responsibility, and I always take advantage of an opportunity to talk about it to a captive audience. First, let me quote Justice Lewis F. Powell on this subject.

> Through the use of computer systems at the Supreme Court we draft, print, and publish our opinions online. This combined system of word processing and computerized

> typesetting provides rapid processing and turnaround of our opinions. In view of the increasing caseloads, the Chambers of Judges will certainly benefit from the use of computer technology.

Justice Powell's description of the U.S. Supreme Court's use of computer technology reflects a gradual but profound change. Processing information in the form of opinions and accompanying material has always been a principal court activity; however, until recently this work was done manually. Today, computer technology has entered the nation's courtrooms and is having tremendous impact. Computers and other devices and techniques, such as facsimile machines, optical scanners, word processors, electronic mail, networking/communications, and computer-aided transcription, are becoming commonplace tools for court personnel.

By 1977, at the urging of a Court secretary, Justice Powell had a word processor installed in his chamber and began experimenting with it. The initial purpose was to reduce the time expended retyping multiple drafts of materials to be included in opinions.

Despite these advances, the turnaround time for Court documents was slow. As issues confronting the Court became more complex, the opinions issued by the Court grew as well. The publication of opinion material fell behind the growing volume of cases and became backlogged at the Court's hot-metal Linotype typesetting machines.

In 1979, the Supreme Court selected Atex, Inc., to supply the necessary equipment for word processing and typesetting of the Court's opinions (both to be handled by the same system of computers). By late 1980, six microcomputers and related composition terminals and digital typesetters had been installed in the computer room. In Justices' chambers, law clerks and secretaries received word-processing terminals, wired directly to the minicomputers. Justices Byron R. White and John Paul Stevens each requested a terminal.

Since 1982, word-processing professionals in the Court's Secretarial Support Unit have provided training in word processing. In addition, the Court has developed its own specialized training courses for law clerks and secretaries. This specialized training is particularly critical because all law clerks leave at the end of each term, resulting in the need to train 34 new law clerks each July and August.

Since initial installation, the system has been incrementally expanded until today, seven years later, staff members performing all functions associated with the Justices' opinions use Atex equipment.

During 1986, Chief Justice William H. Rehnquist and Justices Sandra Day O'Connor and Antonin Scalia also received desktop terminals. Each of these Justices are able to use their terminals for online drafting of opinions.

Today, court technology means more than computers; it integrates all facets of technological innovation. At the Supreme Court, for example, the impact of technology can be seen in faster turnaround of documents created on word-processing workstations. Significant productivity gains arise from spelling checkers, alternate-screen presentation of different documents, rapid output from letter-quality printers in each office, and direct linkage to electronic typesetting. Of course, we are also using other computer systems (two Hewlett Packard 3000 series 58s) for a variety of other applications which I can discuss separately if there is time.

How does this automation assistance to opinion production fit into the concept of an interface to the world of users outside the Court? In our case, we have the necessary technology readily at hand. While we cannot accommodate dozens of individual requests to "send me a tape" or "just transmit the opinions to me online -- there's nothing to it!", we will be capable of transmitting announced opinions to an intermediary who can in turn supply them to outside users.

Just recently, Chief Justice Rehnquist directed that we establish a committee to formally look into the many facets of the proposed interface. We, like you, are finding that there are, at this juncture, more questions than answers to the concept. However, we are not discouraged, because with new solutions to formerly difficult problems due to advances in the state-of-the-art hardware and software, we should be able to move fairly expeditiously through the many issues which must be resolved. Of course we would expect that some of them will become less of a problem as a result of this conference.

As mentioned, there are many questions yet to be resolved. Most of the points I now enumerate are the result of the work of several agencies which contributed to the Office of Management and Budget's just-published *Five-Year Plan for Meeting the Automatic Data Processing Needs of the Federal Government.* I have edited and added to the material for this discussion.

If the government can disseminate information electronically, the costs of publications are greatly diminished, and the information is provided faster and in a much more useful and manipulable form to the public.

There are a number of information policy issues that arise with the use of electronic collection and dissemination. Many of these issues are similar to those associated with word processing and electronic mail. An additional issue arises in conjunction with the statutory obligation many agencies have to make their

information available to the public. Most agencies that collect information from the public are required, by law, to make that information available in some form to the public, either through active dissemination or in making documents available for use and duplication in an agency reading room.

Electronic collection and dissemination systems can improve agency collection, processing, and dissemination activities, but this technology also has the potential to make information *less accessible to interested parties* and to impose requirements that are burdensome on those required to file information. There are considerable risks if these systems are developed without adequate consideration of long-range implications. The major policy issues that must be considered in developing an electronic collection and dissemination system are:

- the obligation to make the information accessible to the public;
- the funding of the system; and
- the obligation to maintain official government records.

Agencies are required to maintain a level of accessibility to information consistent with the statutory requirements governing the use of their information. Some agencies are required to publish and distribute their information widely, others to disclose information using agency reading rooms open to the public, while others must make information available in response to *Freedom of Information Act* requests. In complying with these requirements, agencies should consider the needs of the end users of the information.

In many cases, agencies are more concerned with the collection and processing capabilities of the collection and dissemination system than with its information retrieval capabilities. If information can be electronically retrieved in an agency reading room, this may fulfill the agency's statutory obligation to make the information available. Agencies should make a reasonable effort to allow public users to share in the benefits of their systems. End users, whether they are interested members of the public who frequent the agency reading room, professionals who earn their livelihood from accessing and analyzing agency information, or institutions that collect and provide a secondary source of information dissemination for their customers, are part of the information system and agencies should consider their requirements in designing any dissemination system. Agencies can inadvertently limit access to information when all aspects of system development are not considered.

In developing electronic dissemination systems, agencies should consider the following points:

- How will agency statutory obligations to make data accessible be realized with an electronic dissemination system?

- How will end users be able to access data, both after the system has been installed, and, if necessary, during the period when the system is in development?

- How will *FOIA* requests and *Privacy Act* considerations be addressed by contractors who may have control and custody over the data?

In funding an electronic collection and dissemination system, agencies have explored creative sources of financing. Four very different sources of funding predominate: filing or input fees, user charges or dissemination fees, exchange or barter agreements, and appropriated funds.

Filing fees are used in many Federal agencies. Both the Securities and Exchange Commission (SEC) and the Patent and Trademark Office (PTO) have long required filing fees and have a statutory basis for doing so. The use of filing fees to fund an electronic collection and dissemination system may require legislative action, but does not represent a legitimate source of revenue.

User charges are also a source of funding for electronic information systems such as the National Library of Medicine's MEDLARS system. It has been established that user charges are to be assessed when identifiable recipients receive special benefits from government goods or services. OMB Circular No. A-130 requires establishing user charges for dissemination of information products and services, where appropriate, but balances this request against the policy that *agencies must ensure that information products and services reach the public for whom they are intended.*

Exchange agreements, in which the agency agrees to make its data available exclusively to the contractor in return for contractor services for the system, have not been used with much success as a way to finance electronic information systems. Agencies have had difficulty assigning an accurate market value for their data.

Historically, Congress has been reluctant to make exceptions to the policy that government activities shall be financed with appropriated funds. Congress has not been in favor of proposals to fund electronic collection and dissemination systems with off-budget funds. Agency proposals to use off-budget funds to finance a system could be construed as an attempt to get around the Congressional budget process.

There appears to be no single answer to the question of which financing arrangement is the best, in part because of variations in agency missions. Each arrangement has pitfalls and advantages. In the present tight budgetary climate, however, agencies can be expected to continue exploration of alternative funding arrangements. Since

appropriated funds may not be available for full financing of the systems, agencies will look to other possibilities.

Agencies should consider the following issues in considering funding alternatives:

- Is it proper or realistic for contractors to invest in and/or operate electronic collection and dissemination systems at no cost to agencies in return for special contractor access to data?

- Do user charges for government information products and services constitute exercise of copyright over government information?

- How can agencies establish user charges that are reflective of the cost of producing and disseminating information, yet are not prohibitive to users of the systems?

The next few points indicate the close relationship between the input, or collection aspects, and the dissemination aspects of this issue.

For the most part, the information collected by Federal agencies falls into the category of Federal record material. As such, this information must be retained by the agency in a usable manner until such time as its destruction has been authorized. For that material appraised as having permanent archival value, the agency must transfer it to the National Archives on a medium, and in a format, that have been approved by the Archivist of the United States.

This process is rather straightforward for paper-based records controlled and maintained by a Federal agency. But, when the information is maintained in an electronic form and/or controlled by a private contractor, a number of potential problems arise:

- How will the government's need to maintain an accessible historical record be accommodated in electronic filing systems where contractors have some control over the data?

- If the software is proprietary, what provisions have been made to ensure the continuing accessibility of the records, particularly those which are of more than transitory value?

- Are the files labeled and indexed well enough to permit wide accessibility?

- Are the records stored on a medium and in a format that are accepted by the National Archives and/or usable by the agency?

Electronic collection and dissemination systems do offer many advantages to the government. There is great potential to improve the effectiveness and efficiency of the use of government information. In developing electronic collection and dissemination systems, agencies should be mindful of their obligation to make information accessible to the public, to base their systems on sound cost-benefit factors, and to maintain official government records. These obligations, increased efficiency and accessibility of the information, may appear to be at odds during the development of an electronic information system, but with proper preparation, agencies can develop systems that are responsive to all of their obligations.

In conclusion, we are hopeful that soon we will arrive at the most effective means of electronically disseminating the opinions of the Supreme Court of the United States. We look forward to a continuing dialogue with you so that we may compare notes and help each other throughout this challenging experience.

ONLINE PUBLISHING:

PROBLEMS AND POSSIBILITIES

* * *

LA PUBLICATION EN DIRECT :

PROBLÈMES ET POSSIBILITÉS

QL Systems and Electronic Distribution of Judgments

Hugh Lawford

* * *

SUMMARY

The major initiative of QL Systems in obtaining judgments from courts for electronic distribution is outlined by QL Systems' President, Hugh Lawford. Since being approached by the Supreme Court of Canada to consider the possibility of distributing its judgments electronically, QL Systems is distributing judgments from the Federal Court and Tax Court of Canada, the majority of provincial superior courts, and selected administrative tribunals. According to Professor Lawford, the success of electronic distribution of Supreme Court of Canada judgments and the development of model judgment handling procedures sparked the rapid development of systems at other court levels.

Professor Lawford delineates the procedures involved in obtaining judgments and discusses the problems of acquiring judgments directly from the courts in machine-readable form. The difficulties encountered with the processing of text, particularly the problems surrounding the use of optical character scanners and QL's efforts to solve this obstacle are also addressed.

The benefits of electronic distribution, in Professor Lawford's view, are fast and equal access to judgments throughout Canada. Other benefits to be derived from online access are an increasing availability in the number of written judgments in both official languages, owing to the lower costs involved in collecting judgments electronically. Statistics are supplied to evidence the increase in the number of judgments distributed by courts in 1986 and 1987.

RÉSUMÉ

Hugh Lawford, président de QL Systems, décrit les principales initiatives de cette entreprise dans le domaine de la diffusion électronique de décisions. En 1984, la Cour suprême du Canada s'est adressée à QL Systems pour lui demander de considérer la possibilité de diffuser électroniquement ses décisions. Aujourd'hui, QL Systems diffuse aussi les décisions de la Cour fédérale et de la Cour canadienne de l'impôt, de la plupart des cours supérieures provinciales et de certains tribunaux

administratifs. Selon le professeur Lawford, le succès de la diffusion électronique des décisions de la Cour suprême du Canada et l'élaboration de modèles de traitement de ces décisions ont déclenché le développement rapide de systèmes à d'autres niveaux judiciaires.

Le professeur Lawford décrit les méthodes suivies pour obtenir des décisions et discute des problèmes d'acquisition de décisions exploitables sur machine directement des cours. Il mentionne également les difficultés inhérentes au traitement de textes, particulièrement les problèmes découlant de l'utilisation de lecteurs optiques de caractères et des efforts déployés par QL Systems pour résoudre ces problèmes.

Les avantages de la diffusion électronique, selon le professeur Lawford, tiennent à l'accès rapide et égal aux décisions judiciaires partout au Canada. L'accès direct entraîne également d'autres avantages du fait qu'il augmente le nombre de décisions disponibles dans les deux langues officielles, vu les coûts moins élevés de la diffusion électronique. Il mentionne quelques statistiques pour prouver l'augmentation du nombre de décisions rendues accessibles en 1986 et 1987.

* * *

During an interview on the day of his appointment as Chief Justice of Canada, Brian Dickson told reporters that he had taken time the previous day to begin an acquaintance with computers. Computers, he said, could be valuable in storing and retrieving precedents. The Canadian Press story continues, "The reference to computers startled reporters who cover the court".

If the reporters were startled then, they might be even more startled today to see that Chief Justice Dickson's interest in computing has given Canada an electronic service which distributes not only the judgments of our Supreme Court but also the judgments of almost all of our superior courts. Judgments of the Supreme Court are available in both official languages, in every corner of Canada the same day they are released by the Court. Corwin Mills in a three man firm in Clarenville, Newfoundland, and Doug Fenton, a sole practitioner in White Rock, British Columbia, now have access to judgments of the Supreme Court just as quickly as Maurice Coombs, head of the Research Department of Osler, Hoskin & Harcourt, one of Bay Street's biggest law firms. And even Maurice gets copies of the judgments more quickly than he did before the system was established.

The cost of immediate access to a judgment anywhere in Canada is less than the cost of photocopying the judgment. To receive a 100-page judgment by electronic mail costs about $5.50, five and one-half cents per page.

The system is the result of a request by the Supreme Court of Canada to QL Systems Limited to create a system for electronic distribution of the Court's judgments. Mr. Justice Estey suggested the scope of the initial trial. Anne Roland, the Court's Editor-in-Chief, established procedures for handling the judgments which have become a model for other courts.

The success of the Supreme Court's venture has encouraged other Canadian courts to provide electronic distribution of their judgments. The same system now is shared by the Federal Court, the Tax Court of Canada, the courts of all the provinces except Quebec, and a number of administrative tribunals. Conversations are continuing with the Quebec courts.

For the Supreme Court of Canada, QL sends out headnotes of the judgments soon after the Court releases the judgments. Within one to eight hours later, depending upon the number of judgments and their length, users are notified by electronic mail that the full texts of the judgments can be obtained through the electronic mail system.

Other electronic mail messages to users of the system advise them of the Court's schedule of judgment days and of the disposition of applications for leave to appeal.

For some other courts, the system still is in a start-up phase and distribution is a bit slower. Normally, judgments of those courts are distributed electronically within two days to two weeks after their release by the courts.

The system also offers Canada's law publishers immediate access to the texts of the judgments and to the other information which QL has obtained about the courts' proceedings. QL maintains for use by the publishers, detailed lists of all judgments received by QL from all of the courts. Any judgment can be obtained by any publisher immediately after it has been converted by QL into machine-readable or electronic form. At the head of each case, QL adds "indexed as" information in the form recommended by CLIC's Law Reporting Committee, thus encouraging uniformity of citation by the publishers. QL also adds codes to the text to distinguish various elements or fields of each judgment, such as style of cause, name of the court, date of judgment, names of counsel, and the like.

Three Canadian law publishers already use the service to obtain judgments and a fourth publishing company recently has sought information on how to use the system. Eric Appleby, the President of Maritime Law Book Limited, already has found that the system has reduced his firm's costs and has improved the speed with which the decisions can be published in hard copy. The improved access has helped Maritime Law Book to publish a record 3,942 judgments decided in 1986, and another 1,135 judgments decided thus far in 1987.

How does the distribution system work? In the case of most courts, QL picks up paper copies of the judgments as quickly as possible after they are released by the court, and carries or couriers them to a location where QL has optical page-reading equipment. QL operates five optical page-reading machines, three $80,000 page readers and two less expensive page readers. Any of the machines, of course, reads the judgments into the computer far more quickly and accurately than the average typist can key the texts on a word processor or computer terminal. The manufacturers of all optical page readers claim their readers will read a wide variety of fonts. But we have found that none of the page readers reads all fonts in which the courts supply judgments. None of the machines is designed to read accented French characters. The quality and consistency of the optical reading varies greatly, depending not only on the machine, but on the quality of the photocopies provided to QL by the courts and upon the complexity of the text. Our new Palantir optical readers read more fonts and read more quickly than the other machines. But even these new readers have occasional problems with some typewritten pages. All of the machines occasionally confuse the numeral "1" with the lower case "l" and the numeral "0" with the letter "O". Some of the machines even misread characters that occur infrequently, such as the letter "x".

Of course, a human editor can verify easily whether a character is a "one" or an "L" by glancing at the context in which the character occurs. So QL now is writing and testing computer programs which will examine machine-readable text produced by the optical reading machines. The programs will check which of alternative characters best fit the context. The programs also will compare the text against stored dictionaries and will verify the accuracy of citations and other standard information. We believe these new programs soon will reduce the number of optical reading errors. Of course, the system still is new and still is being improved. We have established as well, procedures for proofreading and checking the accumulated judgments.

In a few cases, texts are transmitted to QL in machine-readable form from word-processing equipment used by the courts. The Prince Edward Island and Newfoundland courts have been leaders in this type of distribution of their judgments. A number of other courts have experimented or are experimenting with transmission from word processors. The Supreme Court of Canada has run successful test transmissions with QL's assistance and QL's equipment.

Although the prospect of receiving judgments directly from word processors seems attractive compared to collecting and optically reading the paper copies, there still are problems. Even within a single court, judges and their secretaries may use a variety of different word processors and a variety of computer programs. Each manufacturer's equipment differs slightly but significantly from those of others. There may be differences even within a single manufacturer's range of equipment. A disc created on a particular manufacturer's equipment cannot necessarily be read on a

different type of equipment, even from the same manufacturer. Occasionally, a disc can be read only by the one specific machine on which it was written.

Moreover, the equipment keeps changing as court administrators purchase new and presumably better equipment for the judges and their secretaries. A program written by QL to receive judgments from a court may suddenly stop working because the court has changed the supplier of its equipment, or has changed or modified existing equipment.

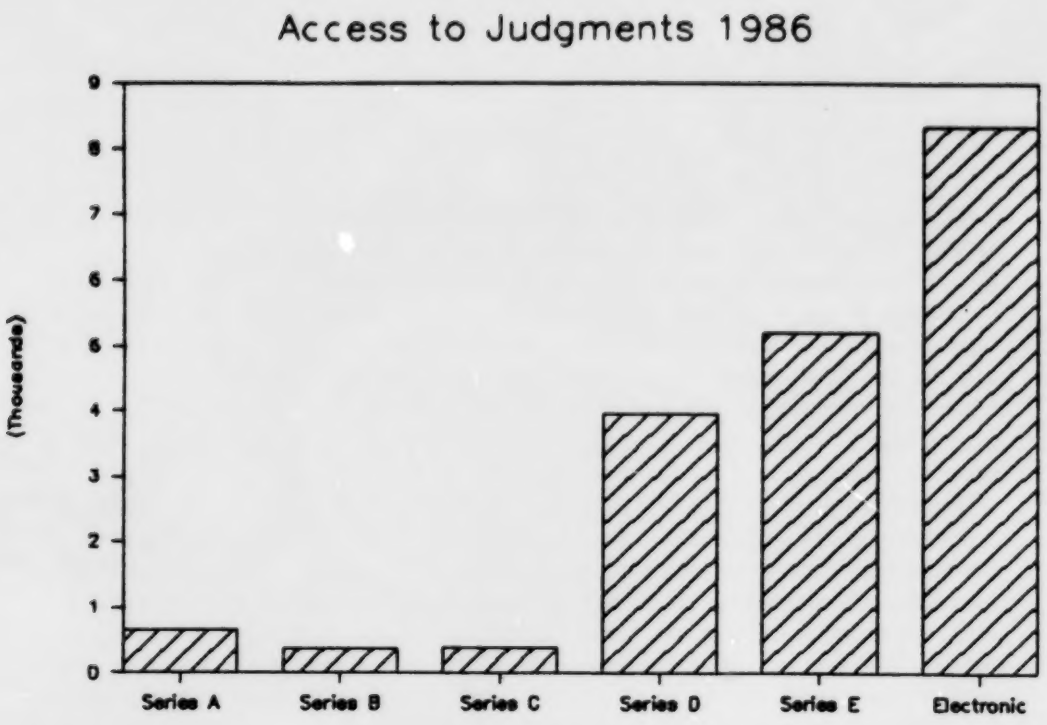
Standardizing all of the word-processing equipment in all of the courts of Canada is a hopeless task, even if it were desirable. Nor is electronic transmission from the terminals in the courts a simple task. The most commonly-used communications modems transmit data at 1,200 bits per second or about 120 characters per second. At that speed, it takes about twenty seconds to transmit each page of a judgment or about 33 minutes to transmit a judgment of 100 pages. How many judges' secretaries will be enthusiastic about tying up their word processors for one-half hour each time they wish to transmit a judgment to QL? Or if, instead of transmitting judgments to all the publishers through QL, the judgments must be transmitted by the courts directly to each of six or seven Canadian publishers, will the courts tolerate spending three and one-half hours in transmitting each judgment?

If sending judgments directly from the courts' word processors is to work, higher speed communications lines are needed. QL can offer the courts QL's own high speed data network, with speeds up to sixteen times faster than transmission through the standard lines and modems.

What Benefits Has the New Electronic Distribution System Brought to Canadians?

Canadian courts have found that they can save time and money while distributing their judgments more widely and more rapidly than was possible by traditional means. The courts are relieved of the nuisance and the costs of maintaining and updating mailing lists, and duplicating and distributing copies of the judgments. Access to the judgments can be offered to anyone.

Anyone can obtain copies of the judgments much more rapidly and at far lower costs than was possible using traditional means. A survey of random issues of the *Ontario Reports* published during 1987 shows that the average time required for publication of an Ontario judicial decision is over five months. By comparison, with planned improvements in the electronic distribution system, written judgments of most courts soon will be made available within 48 hours and judgments of the Supreme Court of Canada within six hours.


Access to Judgments 1986
(Thousands)
0
1
2
3
4
5
6
7
8
9
Series A
Series B
Series C
Series D
Series E
Electronic

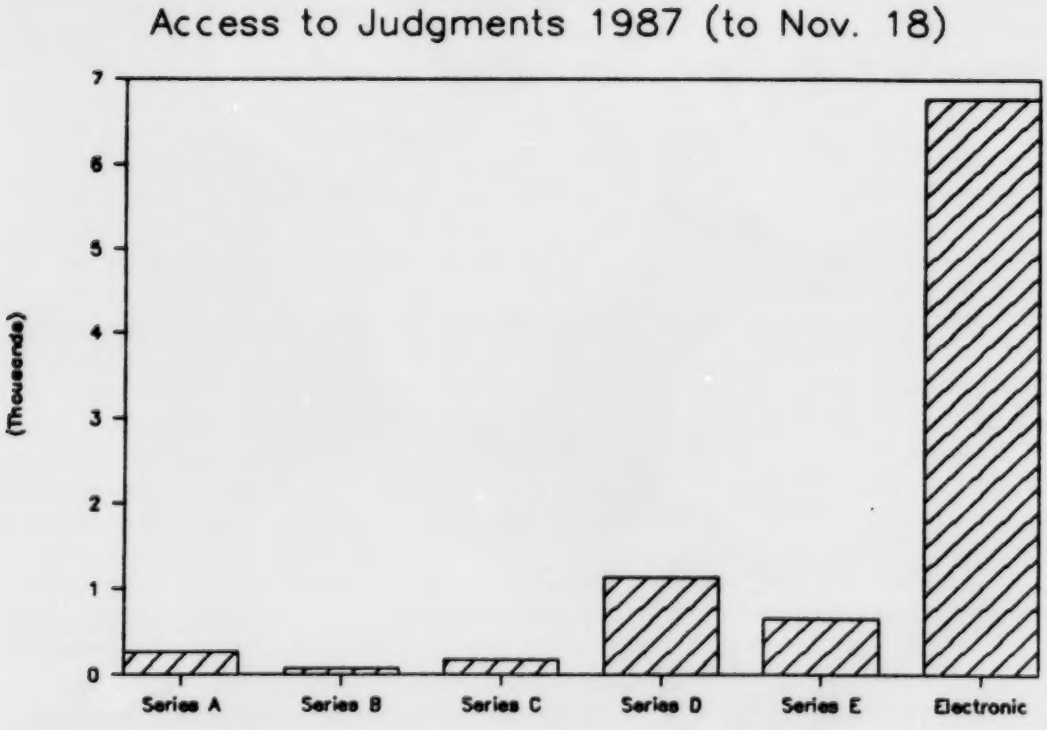

Access to Judgments 1987 (to Nov. 18)
(Thousands)
0
1
2
3
4
5
6
7
Series A
Series B
Series C
Series D
Series E
Electronic

Figure 1

The reduced costs of gathering judgments electronically have permitted a far greater number of written judgments to be made available. The courts already have distributed the full texts of 8,340 Canadian decisions decided in 1986, and QL still is distributing more cases from the 1986 backlog. So far the courts have offered full texts of 6,763 Canadian judgments decided during 1987. Ultimately the courts will offer electronic access to about 10,500 full-text Canadian judgments each year.

To illustrate the scale of this increased distribution: a widely used national collection of law reports has published 641 cases decided in 1986, and thus far, 252 cases decided in 1987. A leading series of criminal cases has published 377 cases decided in 1986, and thus far, 75 cases decided in 1987. Thus, the electronic distribution system has provided access to the full text of over eight times as many 1986 judgments and to over twenty times as many 1987 judgments as have appeared in both series of law reports combined.

Reduced costs of electronic distribution make it possible to offer access to far more French language judgments. The Supreme Court, the Federal Court, the courts of New Brunswick and, to a lesser extent, the Ontario courts, have been distributing judgments in both official languages for some time. Recently, QL began distribution of the full texts of judgments of the Tax Court of Canada. We first receive and distribute the judgments in the official language used by the judge. Later, we receive the Court's translation into the other official language. Interestingly, we have received and distributed during 1987, one and one-half times as many French as English judgments of the Tax Court.

We hope to receive permission soon to distribute judgments of the courts of Quebec to users across Canada. In parallel, we hope to work with SOQUIJ and with CBANET, and to extend the use of the decisions of Federal courts and of the courts of other provinces by Quebec judges and lawyers.

Electronic distribution increases the availability of the judgments of courts of the Atlantic Provinces, the West and the North. Many of these judgments are not found in national law reports series, but are covered more extensively in regional collections. Two leading collections of national law reports have published respectively, seven and ten Newfoundland judgments decided during 1986. The regional series of law reports from another publisher has offered access to 272 Newfoundland judgments decided during 1986. Electronic distribution has offered access to 341 Newfoundland judgments decided during 1986, a 25 percent increase in the number of judgments available.

Electronic distribution equalizes access to the law. Lawyers at locations remote from a court receive the judgments at the same time as lawyers who practice in the

city where the court sits. Sole practitioners can choose from just as many judgments as the largest and wealthiest of law firms.

QL is proud of the part it has played in establishing the Canadian system of electronic distribution of court judgments. We would like to thank the judges and court officials who have made the system work. We would like to thank all of the law publishers who have co-operated in using the system. And last, by no means least, we would like to thank the thousands of users of the system, including all of those who have suggested system improvements. Many persons, some of whom are here today, have supported and are continuing to support the creation and expansion of the electronic distribution system. Together we have created a uniquely Canadian system.

La Société québécoise d'information juridique : l'expérience québécoise

M^me^ Suzanne Paquet

• • •

RÉSUMÉ

La directrice générale de la Société québécoise d'information juridique (SOQUIJ), M^me^ Suzanne Paquet, décrit les récentes activités d'édition en direct de la SOQUIJ. La situation unique de cette société d'État provinciale responsable de la publication de la jurisprudence au Québec, amène M^me^ Paquet à examiner les facteurs qui ont décidé SOQUIJ à produire des banques de textes complets des décisions. Les principaux facteurs, selon M^me^ Paquet, ont été le désir d'améliorer l'accès aux décisions et de réduire les frais de production des décisions et la demande croissante des utilisateurs.

À l'aide de tableaux comparatifs, M^me^ Paquet indique les différences des méthodes de publication avant l'arrivée de l'édition en direct. Elle discute des avantages et des inconvénients de cette nouvelle forme d'édition et la compare à la publication de copies en clair. En dépit de certains avantages, comme l'accès meilleur et plus rapide aux décisions, l'édition en direct comporte néanmoins certains inconvénients, selon M^me^ Paquet, y compris des coûts plus élevés pour l'utilisateur de ce système et l'absence de normes sur les banques de données.

SUMMARY

The Executive Director of the Société québécoise d'information juridique (SOQUIJ), Suzanne Paquet, describes the recent online publishing activities of SOQUIJ. In its unique position as a provincial Crown Corporation with a statutory mandate to receive all judgments rendered by Quebec Courts, Ms. Paquet examines the factors which led to SOQUIJ's decision to provide full-text judgment databases. The major factors, according to Ms. Paquet, were a desire to improve access to judgments, to reduce the costs associated with the production of decisions, and an increasing demand from users.

Through the use of comparative tables, Ms. Paquet highlights the differences in the publishing process prior to the advent of online publishing. Both the benefits and the drawbacks of this new form of publishing are discussed and compared with hard copy publishing. While

benefits such as increased availability and speed of access to judgments have resulted from online publishing, there are certain drawbacks in Ms. Paquet's view, including higher costs for users performing research online and a lack of database standards.

* * *

La Société québécoise d'information juridique est une Société d'état qui a pour mandat de promouvoir la recherche, le traitement et le développement de l'information juridique en vue d'en améliorer la qualité et l'accessibilité à la collectivité québécoise. Partenaire du ministère de la Justice du Québec, la Société, connue également sous le nom de SOQUIJ, reçoit les jugements motivés de l'ensemble des tribunaux judiciaires du Québec, de la Cour fédérale et de la Cour suprême et met à la disposition de la communauté une sélection des décisions les plus marquantes. Par son statut et par la place qu'elle occupe dans le marché de la diffusion de la jurisprudence, SOQUIJ exerce en quelque sorte un rôle de chef de file dans le domaine de la documentation juridique au Québec.

SOQUIJ, à titre de maison d'édition, offre principalement trois produits :

- *Les publications, quelques 38 titres*

  Ces publications contiennent des résumés de jugements et, à l'occasion, du texte intégral.

- *Des banques de données*

  Nous produisons et diffusons :

  JURISPRUDENCE
  RÉSUMÉS - depuis 1985
  TEXTE INTÉGRAL - depuis septembre 1987

  Nous diffusons :

  PLUMITIFS - depuis 1982
  BUREAUX D'ENREGISTREMENT - depuis 1982
  LOIS ET RÈGLEMENTS - texte intégral depuis 1984

- *Service du texte intégral*

  Vente de photocopies, de jugements sélectionnés pour publication à SOQUIJ.

Impact de la distribution électronique

Je dois souligner que notre implication dans la diffusion électronique des décisions est très récente et date seulement de septembre dernier. Avec quelques mois seulement d'expérience nous examinerons avec vous l'impact de la diffusion électronique des décisions pour une maison d'édition comme SOQUIJ :

- avantages
- désavantages
- questions soulevées

Pour aider notre compréhension, nous avons préparé trois tableaux :

- Avant la distribution électronique des jugements de la Cour suprême et de la Cour d'appel.
- Situation actuelle depuis la distribution électronique.
- Futur : saisie électronique à la source.
- Conclusion.

Les tableaux résument le processus de production et énoncent les principaux avantages et désavantages de la distribution électronique pour les trois principaux produits de SOQUIJ.

Les principales raisons qui ont motivé la création d'une banque en texte intégral pour tous les jugements motivés de la Cour suprême et de la Cour d'appel du Québec sont les suivantes :

- Améliorer l'accessibilité aux jugements.
- Les coûts de saisie du texte intégral diminuent avec la technologie du lecteur optique.
- La demande pour avoir accès aux jugements non rapportés est de plus en plus grande.
- La tendance chez les producteurs et diffuseurs est de créer des banques en texte intégral.
- La valeur ajoutée de l'éditeur qui consiste à produire un résumé, à l'indexer et à joindre le traitement documentaire est maintenue à quelques exceptions près pour tous les jugements versés dans la banque en texte intégral.

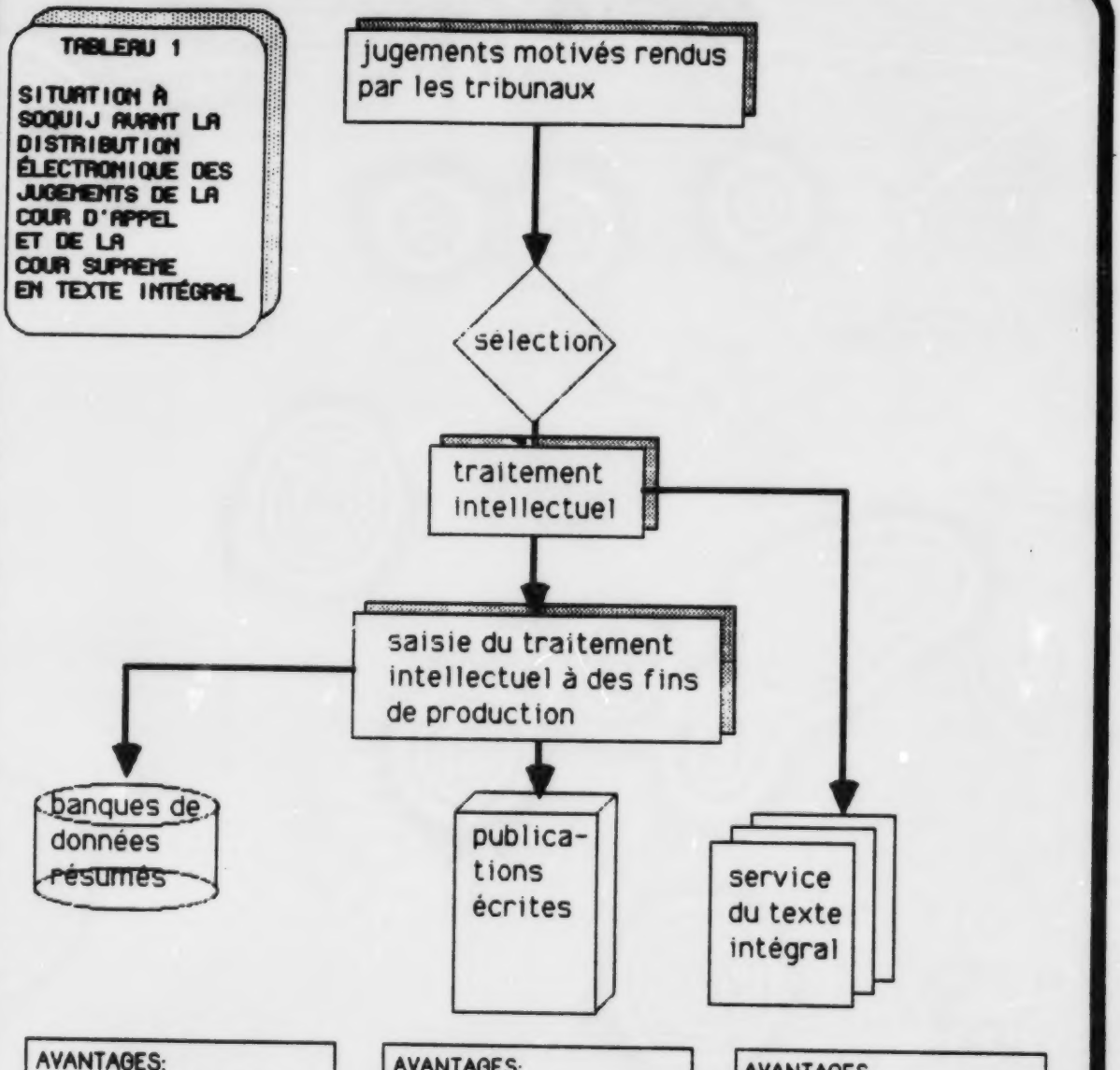
Maintenant que nous avons développé une première banque en texte intégral, nous devons envisager d'effectuer un retour en arrière pour ajouter le texte intégral aux résumés déjà contenus dans la banque. Nous devons également décider si, pour les jugements rendus par les autres niveaux de cours, nous joindrons le texte intégral aux résumés de jugements sélectionnés pour publication.

La décision d'ajouter le texte intégral aux résumés de tous les jugements sélectionnés deviendra probablement automatique avec l'avènement de l'informatisation des activités de soutien à la rédaction et à la diffusion des jugements des divers tribunaux judiciaires du Québec. Le ministère de la Justice du Québec envisage effectivement de faire effectuer par les secrétaires de juges la saisie à la source des décisions rendues par les divers niveaux de cours.

Une vaste consultation des intervenants concernés vient de commencer. L'impact de cette décision risque d'être grand mais combien stimulant pour nous.

TABLEAU 1

SITUATION À SOQUIJ AVANT LA DISTRIBUTION ÉLECTRONIQUE DES JUGEMENTS DE LA COUR D'APPEL ET DE LA COUR SUPRÊME EN TEXTE INTÉGRAL


jugements motivés rendus par les tribunaux
sélection
traitement intellectuel
saisie du traitement intellectuel à des fins de production
banques de données résumés
publica-tions écrites
service du texte intégral

AVANTAGES:
- Coût de stockage réduit (résumés seulement)
- Recherche moins coûteuse pour les usagers

INCONVÉNIENTS:
- Coût élevé de constitution des banques (traitement intellectuel)

AVANTAGES:
- Nécessité de sélection
- Importance du rôle de l'éditeur

INCONVÉNIENTS:
- Nécessité de ressaisir les textes intégraux

AVANTAGES:
- Bonne source de revenus

INCONVÉNIENTS:
- Coût élevé de conservation d'un grand nombre de jugements et d'opération d'un service de vente

SOQUIJ, 21 novembre 1987

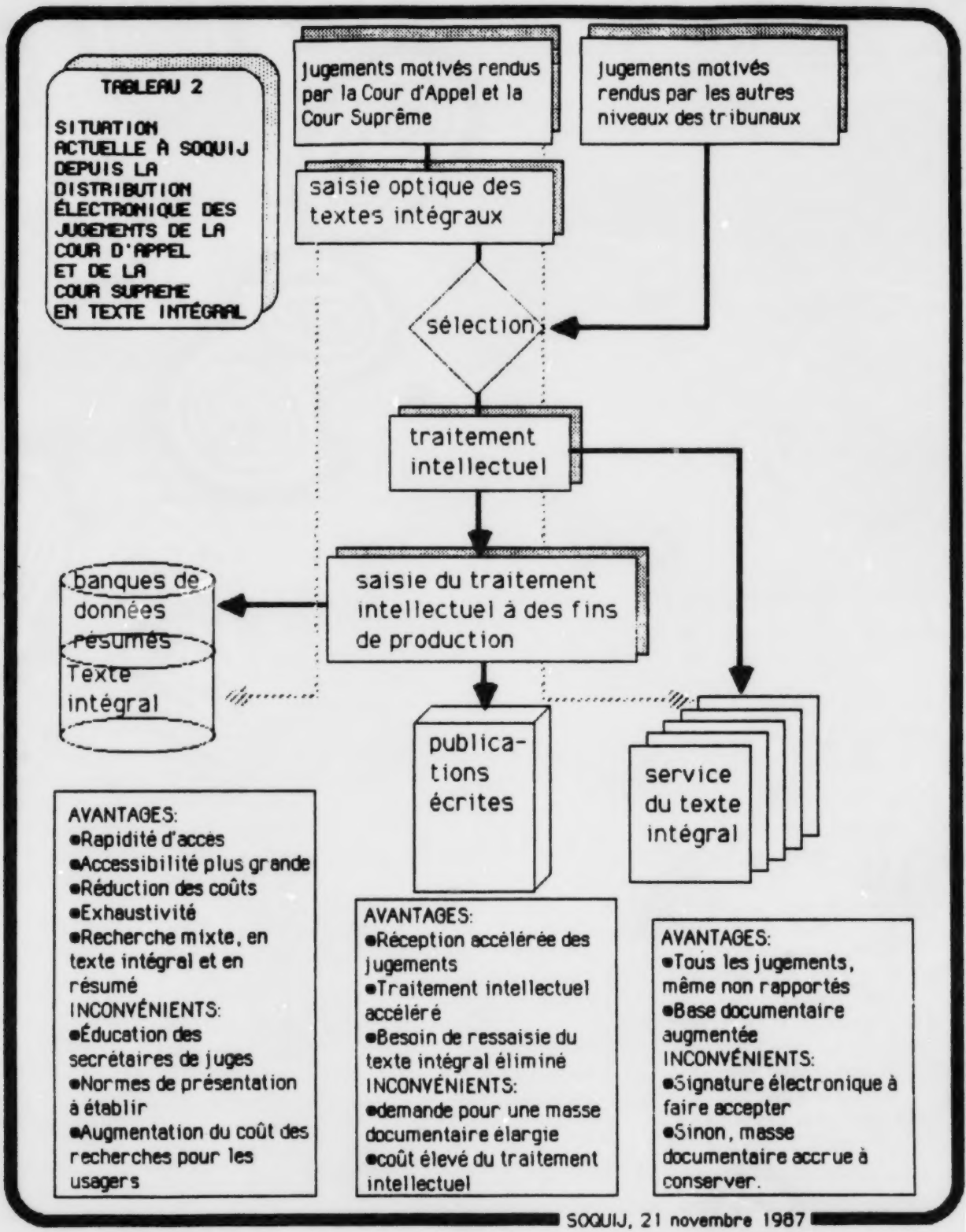
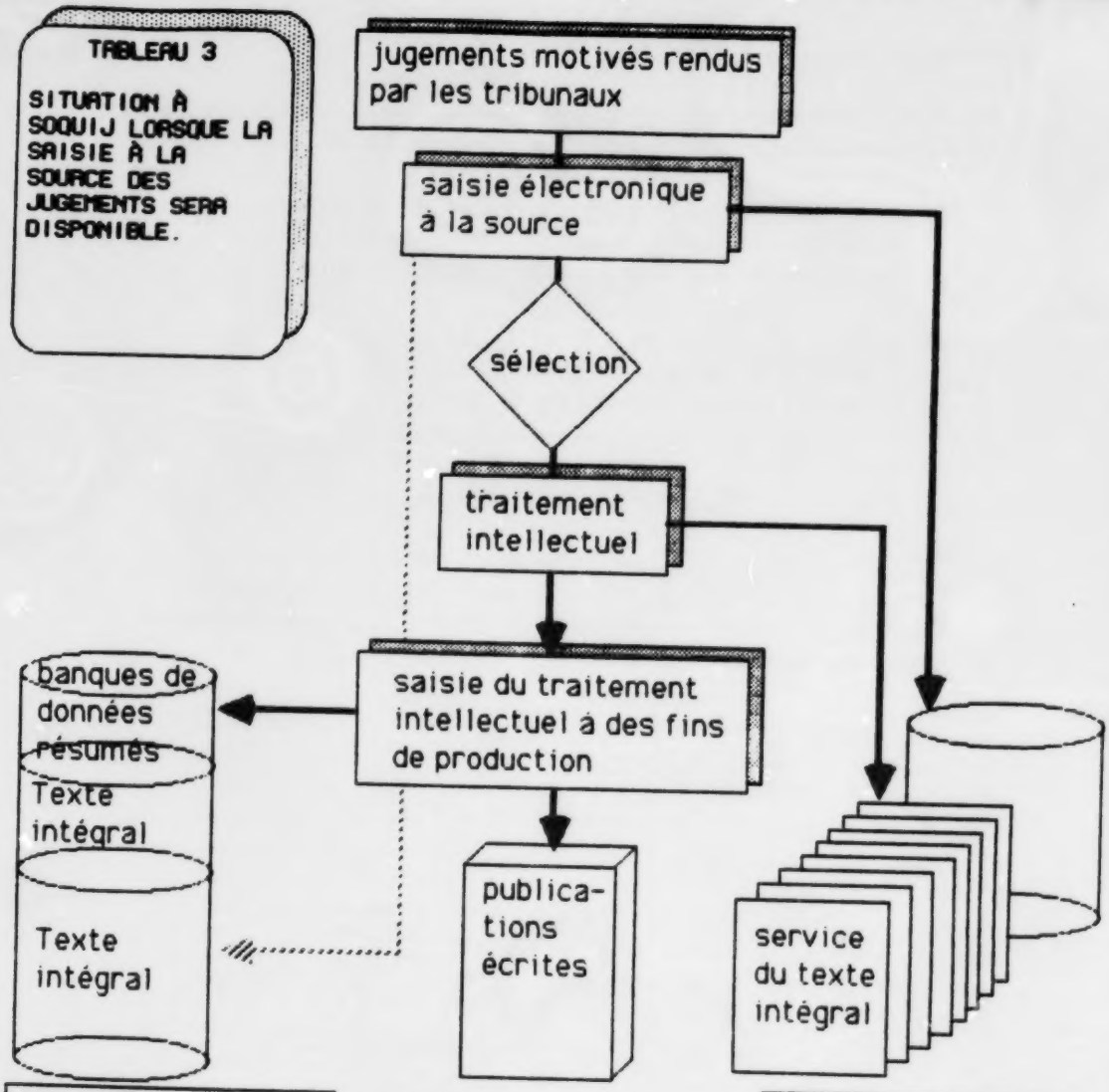


TABLEAU 2
SITUATION ACTUELLE À SOQUIJ DEPUIS LA DISTRIBUTION ÉLECTRONIQUE DES JUGEMENTS DE LA COUR D'APPEL ET DE LA COUR SUPRÊME EN TEXTE INTÉGRAL
Jugements motivés rendus par la Cour d'Appel et la Cour Suprême
Jugements motivés rendus par les autres niveaux des tribunaux
saisie optique des textes intégraux
sélection
traitement intellectuel
saisie du traitement intellectuel à des fins de production
banques de données
résumés
Texte intégral
publications écrites
service du texte intégral
AVANTAGES:
•Rapidité d'accès
•Accessibilité plus grande
•Réduction des coûts
•Exhaustivité
•Recherche mixte, en texte intégral et en résumé
INCONVÉNIENTS:
•Éducation des secrétaires de juges
•Normes de présentation à établir
•Augmentation du coût des recherches pour les usagers
AVANTAGES:
•Réception accélérée des jugements
•Traitement intellectuel accéléré
•Besoin de ressaisie du texte intégral éliminé
INCONVÉNIENTS:
•demande pour une masse documentaire élargie
•coût élevé du traitement intellectuel
AVANTAGES:
•Tous les jugements, même non rapportés
•Base documentaire augmentée
INCONVÉNIENTS:
•Signature électronique à faire accepter
•Sinon, masse documentaire accrue à conserver.
SOQUIJ, 21 novembre 1987

TABLEAU 3

SITUATION À SOQUIJ LORSQUE LA SAISIE À LA SOURCE DES JUGEMENTS SERA DISPONIBLE.



AVANTAGES:
- Possibilité d'offrir les textes intégraux de tous les jugements rapportés et non rapportés
- Rapidité d'accès plus grande
- Soutien à la gestion documentaire des Cours éloignées géographiquement.

AVANTAGES:
- Saisie du texte intégral automatique

INCONVÉNIENTS:
- Plafonnement des ventes

AVANTAGES:
Si signature électronique acceptée:
- Base documentaire augmentée
- Vente de jugements rapportés et non rapportés
- Coûts de stockage diminués
- Rapidité d'accès

SOQUIJ, 21 novembre 1987

Conclusion

Cette nouvelle perspective qui consiste pour SOQUIJ à avoir accès à tous les jugements à la source et sur support électronique amène certaines réflexions.

- Est-ce que la valeur ajoutée de l'éditeur (sélection, résumés, indexation, documentation) sera éventuellement remplacée par des systèmes de résumés automatiques, ou systèmes-experts?

- SOQUIJ aura probablement à redéfinir ses produits et services si la nouvelle technologie favorise les publications électroniques par rapport aux publications imprimées.

- À quel rythme les bureaux de juristes s'intéresseront-ils aux possibilités qu'offre le repérage informatique?

La diffusion électronique des décisions, la saisie électronique à la source par les tribunaux, les nouveaux logiciels de production et de repérage, les nouveaux supports pour le stockage des données, voilà autant d'éléments et d'événements qui amènent des bouleversements et des défis pour tous les éditeurs juridiques.

Legal Databases: Adding Value By Adding Quality

M. Anne Foster

* * *

SUMMARY

In her presentation, Anne Foster, Vice-President of Electronic Information Services, Canada Law Book, stresses the necessity for the development of standards to aid in the accurate retrieval of information from online systems. It is essential from her point of view, that the information contained in systems is faultless, uniform and reliable.

Ms. Foster discusses the procedures involved in the editing process for judgments and the care which goes into checking the accuracy of the text and in the preparation of citations, summaries, indexes and tables of cases. In full-text retrieval systems, it is imperative that value-added services, such as summaries and controlled keywords, are present to ensure accurate retrieval of information.

In terms of technical quality control, Ms. Foster cites problems with the transfer of data and the necessity of developing standards in this area. Owing to the present lack of data transfer standards, Ms. Foster is of the view that database publishers have a duty to ensure the accuracy of cases contained in their databases.

Ms. Foster stresses the need for standards to allow the transfer of information in a format that can be read by any technology. This development would permit access to judgments in electronic form, and would, in her view, "allow us to continue the long established practice of making judicial decisions available equally to everyone".

RÉSUMÉ

Dans son exposé, M^me^ Anne Foster, vice-présidente de la division des services électroniques de Canada Law Book, insiste sur la nécessité d'élaborer des normes pour assurer l'exactitude de la recherche documentaire en direct. Selon elle, il est essentiel que l'information contenue dans les systèmes soit impeccable, uniforme et fiable.

M^me^ Foster discute des méthodes d'édition des décisions et du soin qu'il faut mettre pour vérifier l'exactitude des textes et préparer les citations, les résumés, les index et les tableaux des causes. Il est

impératif, selon elle, que les systèmes de recherche de textes intégraux soient assortis de services d'appoint, comme les résumés et les commandes de contrôle, pour en assurer l'exactitude.

Quant au contrôle de la qualité technique, M^me^ Foster mentionne les problèmes associés au transfert des données et la nécessité d'élaborer des normes à ce sujet. Vu l'absence de normes pertinentes en ce moment, M^me^ Foster estime que les éditeurs de banques de données ont l'obligation d'assurer l'exactitude des données versées dans leurs banques.

M^me^ Foster insiste sur la nécessité d'adopter des normes qui permettront le transfert de l'information sous une forme exploitable selon n'importe quelle technologie, permettant ainsi l'accès électronique aux décisions, ce qui, toujours selon elle, "nous permettrait de continuer la pratique depuis longtemps établie de favoriser l'accès aux décisions judiciaires pour tous".

* * *

One of the great strengths of the common law lies in its ability to mislay cases.

An English barrister commenting on the merits of large databases, theoretically containing *all* case law.

Thirty years ago, an American law professor introduced the first computerized retrieval system for lawyers. Now there are four commercial systems in North America, for the law.

Lawyers have immediate exposure to retrieval systems, because most large law firms have information quagmires of their own to organize.

Both the publishers of commercial databases and the lawyers charged with developing or buying retrieval systems for in-house applications will have to learn how to put cases, memoranda, opinions and other costly items in a system, so that they may be found again.

Now that retrieval systems are maturing, it is time that courts, lawyers, publishers and online service vendors take action to ensure that the record of judicial decisions in this country is valid and reliable. This article discusses some of the standards which database builders need to consider.

There Is No Magic in Computers

Forget about all the hoopla surrounding the technology which has created "databases" from what used to be books and libraries. Think, instead, of the fact that these databases represent 100 years of case law from 72 jurisdictions -- several million decisions, as well as statutes and regulations.

The systems which provide access to databases combine two functions: the storage of information and the way to find the information that is stored. Publishers still prepare the information, but in an electronic form rather than the traditional printed page.

People who wish to read cases or statutes in this form use computer terminals which communicate with the shared computer facilities. You may do this yourself, through the research department of a law firm, or through an intermediary service, such as the Law Society of Alberta's Law Search, or the Law Society of Upper Canada's Search Law. Figure 1 shows the relationships.

Law firms can also use these systems to store private files. However, increasingly these files are maintained in-house on much smaller, but just as powerful, computers. Large databases containing case law have been too big for in-house systems.

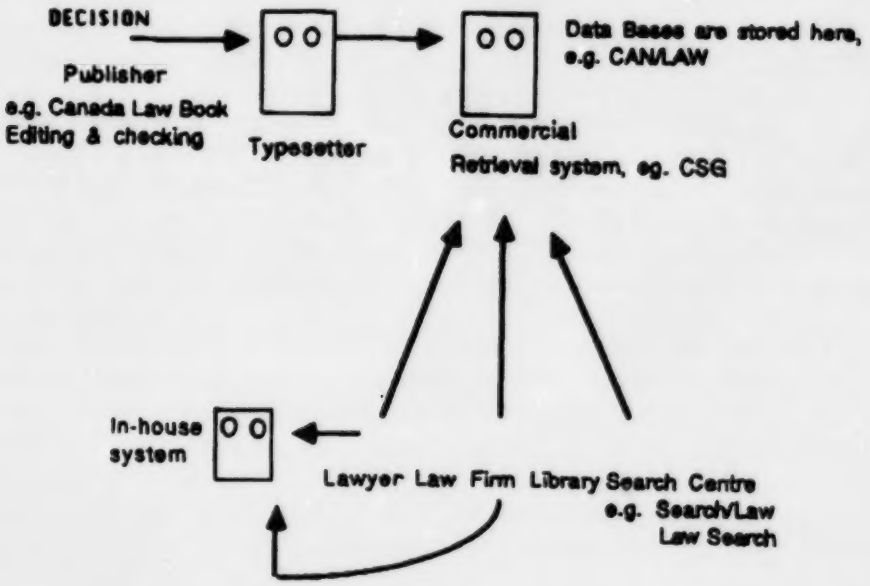


Figure 1

New developments in laser technology, however, make it likely that soon the equivalent of a complete set of *Dominion Law Reports* can feasibly be stored in a unit which can fit on a lawyer's desk.

The practical importance of these developments lies in their potential for giving immediate access to immediate answers from sources that, in the past, have been too big to use effectively. For example, *All-Canada Weekly Summaries* contains more than 25,000 decisions; 6,000 of those are family law. In effect, you can create a family law reporter on demand.

The key to all this lies in the cases reaching the retrieval system in a form which is reliable, consistent and comprehensive. A retrieval system without information is of no particular use. Information which has not been properly formatted for a retrieval system is only partially useful.

The Discipline of Databases

A computerized retrieval system does not see the world of case law or statutes the same way you do. Unlike people, most current computerized legal retrieval systems do not benefit from serendipity. They cannot stumble on useful information the way people leafing through books can. (Although people are trying to teach the machines to imitate serendipity.) They can be tripped up by misleading organization. And because computer systems are so relentlessly logical, they do not deal effectively with inconsistencies.

In spite of large databanks containing case law; in spite of tentative gestures towards automation by some of our courts; in spite of technological developments that make it feasible to store libraries in desktop microcomputers, the computerized system may mislay the Common Law just as effectively as any human agent. And the reason for this is, not surprisingly, the human agents who think databases exist the instant someone has put a document on a word processor.

What must be understood is that if the information in a retrieval system is not clean, consistent and structured, it will be lost. It may be lost more thoroughly than mere misfiling would permit simply because records in computer systems are harder to stumble upon.

What Publishers Do

A publisher acquires information, edits it and distributes it. It sounds simple. Each step, however, needs effort and organization. Publishers distribute in some form or

another more than 10,000 cases each year from all Canadian jurisdictions to all Canadian jurisdictions. The single most important, and most costly part of that effort is the editing of the material. The next most costly is the distribution. Courts are not likely to take on the task of reaching the whole legal community with decisions, apart from making them available.

Canada Law Book is now receiving 300 cases a week. We try to acquire all cases from all jurisdictions where judgments have been written.

Judgments may come in many forms, most often photocopies of typewritten manuscript. This emphasizes the enormous variation in the practices used to prepare judgments. Often the decisions are nothing more than handwritten endorsements.

What "Editing" Means

Typically, we will read a case four times; the first time to determine where it is to be published, the second to summarize and prepare headnotes, the third (although carried out simultaneously with the second) is a very detailed reading of the content (see the next paragraph), and the fourth is to verify that the typeset version is correct. Because we build databases, we have a fifth reading at the time the database is updated to ensure that the case has been transmitted accurately.

The detailed reading, called checking, involves very thorough legal research. Every statute cited in a case is verified and updated; each case considered is researched; the style of cause is verified; all other Canadian publications which have published it are identified; and those citations are added to those which appear in the judgment. Case histories are prepared and published in annotation services and digests. Keywords are added; indexes and tables of cases are prepared. It is no reflection on the courts to say that errors can occur, and that we provide a very useful service in identifying them and communicating this information to the courts. The effort involved in making a manuscript publishable is not something on which the courts could or should expend scarce resources.

A recent study compared searching done using a full-text retrieval system with searching without computer aid. The files in question were documents relating to a specific case and containing the usual miscellany of letters, notes, memoranda, opinions and other materials. The files also contained information acquired during proceedings for discovery.[1] One of their discoveries was that relevant letters and documents were not being retrieved from files because each side in the dispute

---

[1] Blair, David C. and Maron, M.E., "An Evaluation of Retrieval Effectiveness for a Full-text Document-Retrieval System" in (1985) 28 *Communications of the ACM.*

referred in correspondence to the same issue in different terms. For example, what was an "accident" to one side was merely the "incident" to the other. Consequently, any searches for all relevant documents relating to the accident missed all the material which did not use the terminology.

Although it is not explicitly stated in the study, it is reasonable to assume that at least part of the problem lay in the reliance of the database builders on the "full text" of a document containing all necessary terms. Database designers have to treat this idea with caution. One cannot count on the author of a letter, or of a judicial decision, to write it with future retrieval in mind. The addition of more structured vocabulary to each document, following a set of rules established by the law firm and known to the researchers would have increased the "retrievability" of the documents.

Full text has great merit as a means of increasing the odds that you will find some relevant terminology which may not have been indexed. However, full text raises new problems, because the context in which words are found may make the document virtually useless. Furthermore, words which a searcher chooses to describe a question, may not be the words used by the author of the document. See "accident" and "incident" above.

For this reason, summaries, analyses of issues and strictly-controlled keywords are necessary enhancements to a raw document.

Technical Quality Control

When a piece of information, including information already in machine-readable form is transferred from one place to another, for example from one word processor to another, changes occur. The way a Wang stores data is often very different from the way an IBM-PC stores data. It is rather like going to Cairo and trying to read Arabic with a German/English phrase dictionary. Words may be lost or garbled, and formatting is usually disorganized. If several courts suddenly decided to automate the delivery of cases, you would not automatically have a database just because some of the data could be delivered to a retrieval system.

In the transfer process, whether this occurs through transmission lines or between tapes, many errors can adulterate the information. What one computer interprets as a message indicating the end of a line, another may interpret as a special character, or several characters. The meaning of a sentence can be lost or a name misspelled.

The lack of what are called conversion standards imposes a responsibility on the database publisher to monitor, in effect proofread, all the cases which appear on a database. This is a time-consuming task, only partially assisted by computers.

Both courts and database builders must share the responsibility of organizing their information in such a way that it can be reliably retrieved. Standards of transfer must be agreed upon. This takes time, but it is essential.

The Development of Standards in the Distribution of Electronic Versions of Judgments

The most effective way to overcome the language problem of one system trying to speak to another is to not limit distribution to one technology. There is a distinction between the information and the medium on which it is distributed, and the medium must not restrict the availability of the information. Rather, the information should be provided in a relatively neutral form that any technology can read. Judicial decisions have traditionally been made available by the courts to anyone who requested them. This tradition should not change simply because one version is electronic.

Such a standard has been developed by the American Book Publishers' Association, and is under consideration by the International Standards Organization. Called by the rather alarming name, Standard General Markup Language, it is a descriptive set of codes which any automated system can read. It excludes all characters which would not be found on the most basic computer keyboard. It is very simply learned, but in fact will soon be made available in word-processing packages.

Adopting a simple standard like this means that any electronic version of a court decision can be used by anyone who wants access to it. It does not demand expensive capital investments. It does not require difficult policy decisions about whether courts should make their judgments available to one commercial supplier only. Such a standard allows us to continue the long-established practice of making judicial decisions available equally to everyone.

La diffusion électronique de la jurisprudence - les systèmes documentaires vingt ans après

Ejan Mackaay

• • •

RÉSUMÉ

Professeur de droit à l'Université de Montréal, Ejan Mackaay examine la diffusion en direct des décisions du point de vue des utilisateurs. Il discute en détail des critères importants pour les utilisateurs des systèmes de recherche documentaire en direct. Selon le professeur Mackaay, ceux-ci veulent non seulement savoir qu'ils ont épuisé toutes les sources possibles de documentation au cours de leurs recherches, mais veulent également être assurés que leurs recherches soient pratiques et utiles. Les systèmes en direct doivent également être faciles d'utilisation, soutient le professeur Mackaay, de façon à ce que les utilisateurs puissent y avoir accès sans l'aide d'intermédiaires. Le temps de réponse du système doit être aussi rapide que possible et les frais d'accès ne doivent pas être prohibitifs.

Selon le professeur Mackaay, il y a eu au cours des vingt dernières années un progrès considérable sur le plan des critères, mais il faudrait néanmoins qu'à l'avenir ces systèmes deviennent plus faciles de consultation et de plus en plus accessibles. Les systèmes en direct doivent également être perfectionnés de façon à pouvoir être consultés dans la langue préférée de l'utilisateur.

Pour conclure, le professeur Mackaay prédit que l'évolution des systèmes spécialisés aura des répercussions sur les systèmes de recherche documentaire en direct et sur la façon dont les utilisateurs se serviront de l'information et y auront accès.

SUMMARY

Ejan Mackaay, Professor of Law at the University of Montreal, considers online judgment distribution from the perspective of users. The criteria for online judgment retrieval systems of significance to users are discussed in detail. In Professor Mackaay's view, users not only want to ensure that they have exhausted all possible sources in their research, they also require that the research is applicable and useful. Online systems must also be user-friendly, argues Professor Mackaay, so that users can gain access to systems without the aid of

intermediaries. System response time must also be as fast as possible, and the costs of accessing systems must not be prohibitive.

Over the course of the past twenty years, observes Professor Mackaay, considerable progress has been achieved in regard to these criteria. In his view, future developments should ensure that systems become more user-friendly and increasingly accessible to users. Online systems should also evolve so that they can be accessed in whatever language chosen by the user.

In concluding, Professor Mackaay predicts that developments in expert systems will have an impact on online retrieval systems and the way in which users will access and manipulate information.

• • •

Je crois que j'ai un mandat immense et que je ne pourrai certainement pas traiter de tous ces sujets dans les treize minutes qui restent jusqu'à 10 h 30, sans même compter la période de questions qui nous a été annoncée. Je vais donc me limiter à une réflexion sur ce qui me semble pouvoir être les voies de l'avenir de l'accès à la jurisprudence. Les questions juridiques qui se soulèvent, je les laisserai de côté et pour ce qui est des plans, enfin le passé de DATUM II et les plans éventuels, c'est peut-être un chapitre qu'il ne faut pas réouvrir et donc je n'en parlerai pas non plus.

Je vais me déplacer vers le rétroprojecteur et me servir des transparentes comme ont fait les conférenciers précédents.

Je me suis dit, ce qui m'intéresse dans ces questions, étant donné que je n'ai plus la responsabilité d'un groupe qui participe à cette immense entreprise de diffusion, c'est le point de vue de l'usager. Alors, comme usager, qu'est-ce qui m'intéresse dans la présentation de la jurisprudence? Je me suis fait un tableau qui a cette allure-ci. *(Voir le diagramme 1 à la page 53.)*

Les critères de qualité pour l'usager d'un service de diffusion électronique me semblent être les suivants. D'abord, il est intéressé de savoir, quand il se sert d'un système d'ordinateur qui lui fournit la jurisprudence, qu'il arrive à une recherche exhaustive; ensuite il veut s'assurer que ce qu'il reçoit est effectivement pertinente, qu'il peut s'en servir dans son travail quotidien. En plus, le système devrait être passablement convivial, c'est-à-dire que, de plus en plus, on ne veut plus se servir d'un intermédiaire. D'ailleurs on le fait de moins en moins. On veut directement se servir du système et on ne veut pas hésiter à se servir encore de la maudite machine parce que c'est tellement compliqué. Le troisième aspect est donc l'aspect de la

convivialité. En quatrième lieu, il voudrait que le temps de réponse soit le plus court possible. On est certainement en bonne voie de réaliser cet objectif-là. Enfin, il y a évidemment des considérations de coût.

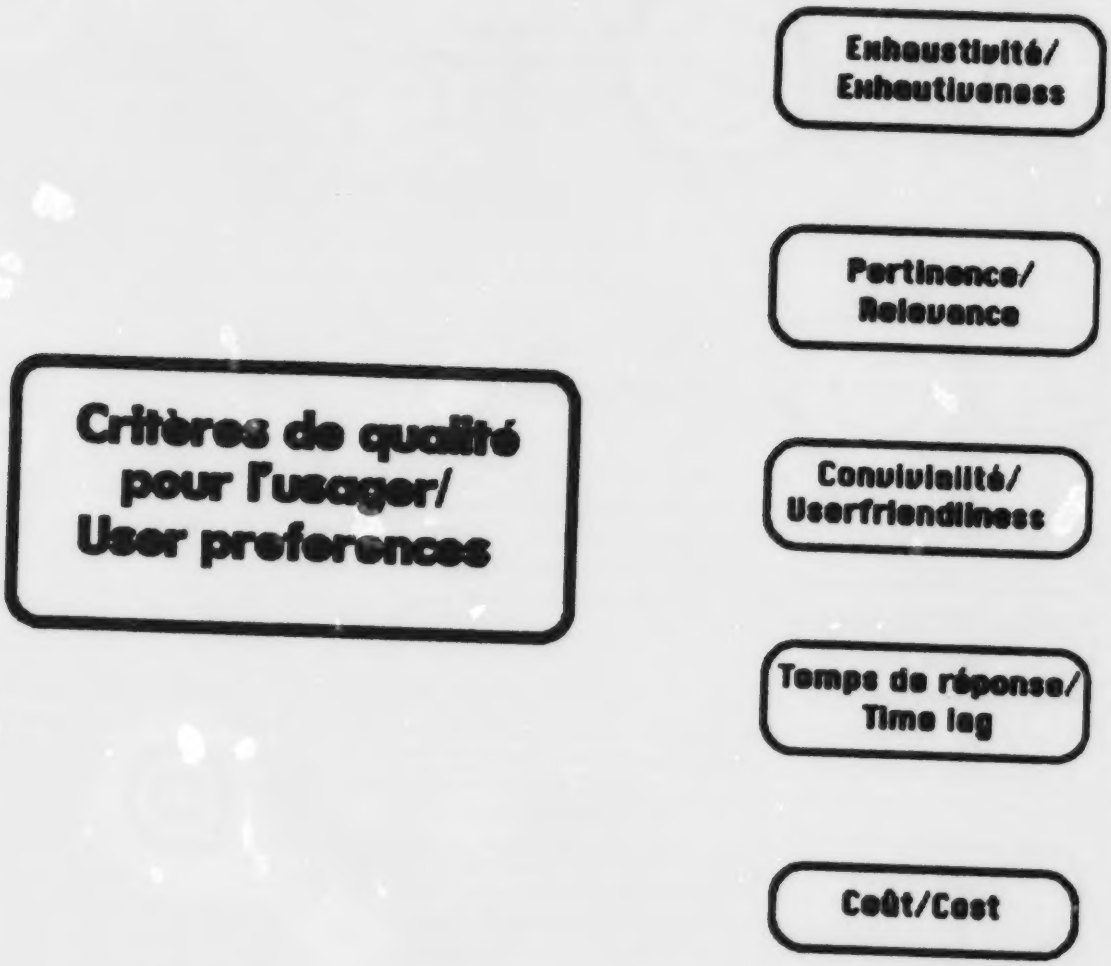


Diagramme 1

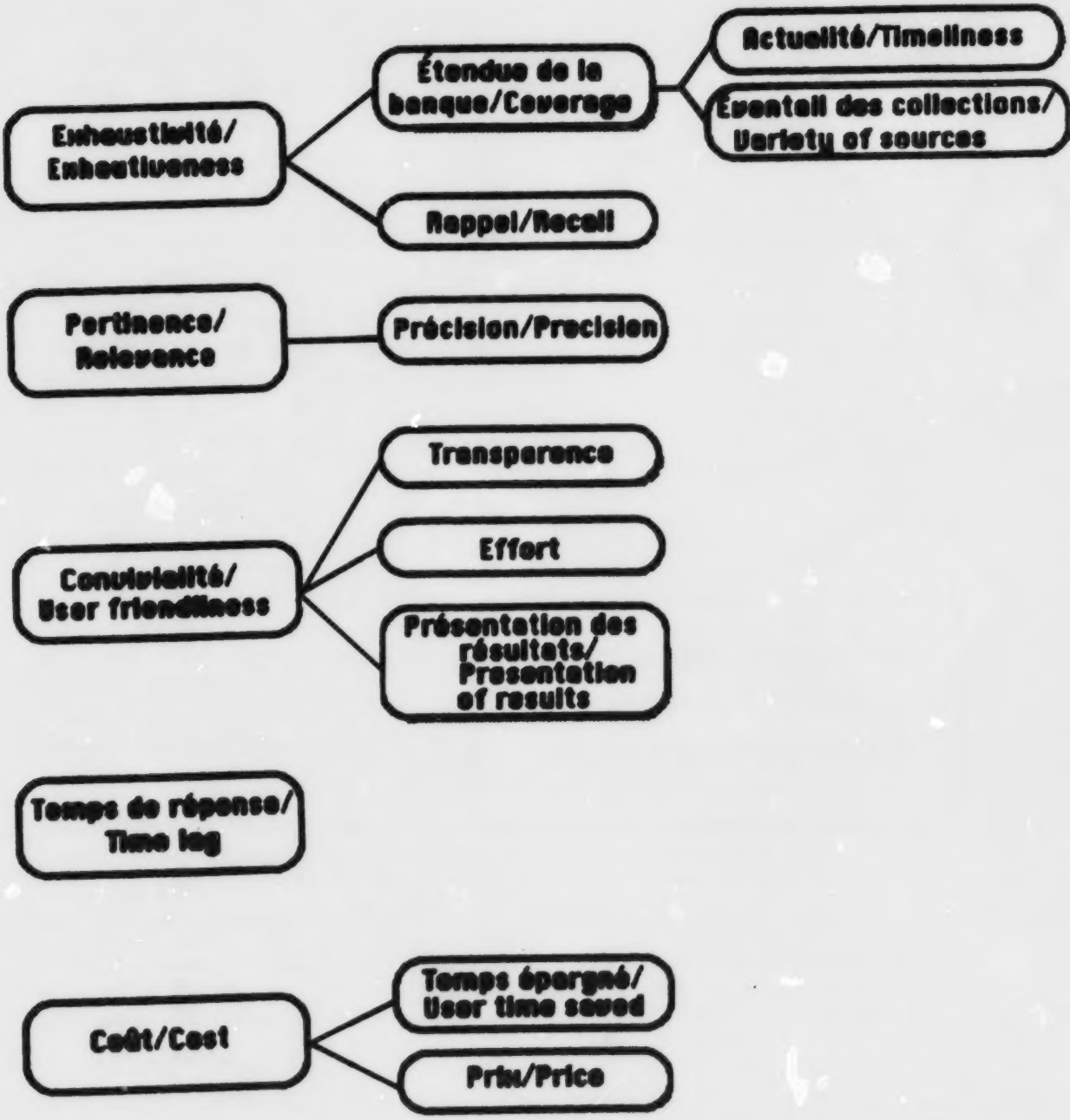

Exhaustivité/
Exhaustiveness
Étendue de la
banque/Coverage
Actualité/Timeliness
Éventail des collections/
Variety of sources
Rappel/Recall
Pertinence/
Relevance
Précision/Precision
Convivialité/
User friendliness
Transparence
Effort
Présentation des
résultats/
Presentation
of results
Temps de réponse/
Time lag
Coût/Cost
Temps épargné/
User time saved
Prix/Price

Diagramme 2

Alors voilà, en gros, les cinq paramètres qui me sembleraient déterminer l'intérêt que présente tout système de diffusion par lequel un usager peut avoir accès à la jurisprudence ou à tout autre source documentaire. Comment ça se précise? J'ai essayé de ventiler un peu plus les différents facteurs que je vous ai déjà annoncés. *(Voir le diagramme 2 à la page 54.)*

D'abord pour ce qui est de l'exhaustivité, elle a deux composantes, d'abord évidemment l'étendue de la banque, c'est-à-dire ce qu'il y a dans la banque qu'on pourrait rechercher et, pour ce qui est de l'étendue, il y a même deux sous-aspects, si je peux dire, d'abord l'actualité et puis l'éventail des collections disponibles, les cours dont on saisit les jugements par exemple. Il y a un deuxième aspect a cette qualité d'exhaustivité, qui est une notion que connaissent bien ceux qui travaillent dans la documentation, c'est-à-dire le rappel. On veut le plus possible que tout ce qui est pertinent dans une banque ressorte effectivement à la suite d'une demande. La pertinence, ce que je peux en dire, c'est que c'est connu encore une fois dans la litérature de ceux qui s'intéressent à la documentation tout comme le facteur suivant; à savoir le problème de la précision, c'est-à-dire les moyens d'éviter le bruit.

Pour ce qui est de la convivialité maintenant, cela présente plusieurs aspects. D'abord ce qu'on pourrait appeler la transparence, c'est-à-dire la faculté d'un système de montrer immédiatement à l'usager ce qui ce passe, ce qu'il est en train de faire, plutôt que quelque chose d'opaque dont, à la fin, il reçoit une réponse qui, par hypothèse, lui rend service mais sans lui faire comprendre trop ce qui ce passe au milieu. Ensuite, deuxième aspect, il faut que le système lui demande le moins d'efforts possible et, troisièmement, il faudrait que les résultats lui soient présentés dans la forme la plus commode, le plus près de ses soucis habituels. Pour ce qui est du temps de réponse, évidemment il n'y a rien de spécial à dire. D'ailleurs avec nos moyens techniques actuels, nous sommes en train de travailler beaucoup sur cette question.

Pour ce qui est du coût, deux aspects, d'une part le prix, c'est-à-dire ce qu'on paye et, d'autre part, le temps que l'on épargne parce qu'évidemment il faut bien se dire que pour moi, en tant qu'usager, le temps que je passe devant le terminal ne peut pas être utilisé à autre chose.

Ce que je voudrais faire maintenant, une fois que nous avons fait cet inventaire, cette ventilation, c'est voir le progrès que nous avons fait depuis environ vingt ans. C'est en 1968, à la conférence de Kingston organisée par Hugh Lawford, qu'on a en fait commencé tout ce qui est maintenant sur la table et je voudrais m'interroger sur ce que nous avons accompli depuis ce temps-là. *(Voir le diagramme 3 à la page 56.)*

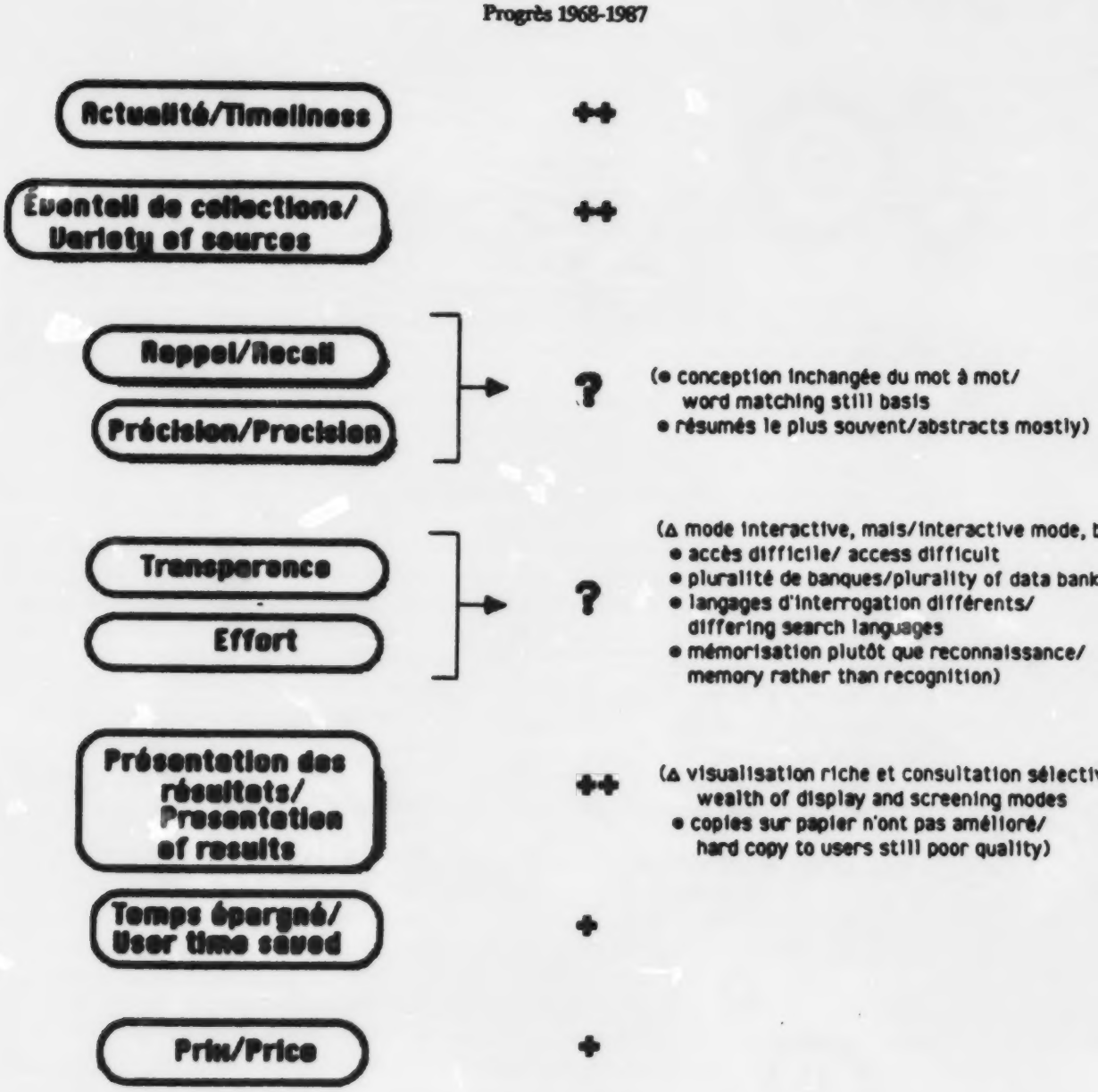

Progrès 1968-1987
Actualité/Timeliness
++
Éventail de collections/
Variety of sources
++
Rappel/Recall
Précision/Precision
?
(• conception inchangée du mot à mot/
word matching still basis
• résumés le plus souvent/abstracts mostly)
Transparence
Effort
?
(Δ mode interactive, mais/interactive mode, b
• accès difficile/ access difficult
• pluralité de banques/plurality of data bank
• langages d'interrogation différents/
differing search languages
• mémorisation plutôt que reconnaissance/
memory rather than recognition)
Présentation des
résultats/
Presentation
of results
++
(Δ visualisation riche et consultation sélecti
wealth of display and screening modes
• copies sur papier n'ont pas amélioré/
hard copy to users still poor quality)
Temps épargné/
User time saved
+
Prix/Price
+

Diagramme 3

J'ai repris les facteurs retenus au diagramme précédent et je vous ferai quelques commentaires. D'abord pour ce qui est de l'actualité, je pense que nous avons fait des progrès considérables. J'avais mis deux + plutôt que trois que je donnerais aux États-Unis, mais je crois à la suite des remarques de ce matin, qu'on est même en voie de réaliser les trois + pour ce qui est de l'actualité, c'est-à-dire que nous pouvons maintenant avoir accès presqu'immédiatement; on parle de six heures pour la Cour suprême, de 48 heures pour d'autres cours. Il me semble que c'est tout à fait convenable pour ce qui est de l'actualité.

Maintenant pour ce qui est de l'éventail des collections accessibles par ce système électronique, j'ai l'impression que là nous avons encore du retard par rapports États-Unis. Mais ce retard est en voie de disparition.

Passons maintenant à ce qu'on pourrait appeler la qualité de la recherche qu'on peut faire sur ce système, c'est-à-dire les deux aspects du rappel et de la précision. Je mettrais, pour ma part, un point d'interrogation. J'ai l'impression d'abord que nous n'avons pas beaucoup bougé. D'ailleurs, Martin Felsky le dit dans la présentation de l'atelier, la conception de base de nos systèmes de recherches n'a pas varié vraiment depuis 1968 et je me demande même si elle a bien bougé, fondamentalement bougé, depuis la conception initiale à Pittsburgh par John Horty. Nous faisons toujours la recherche en demandant à l'usager de préciser une suite de lettres qu'on doit retrouver dans les textes. Que les textes soient du texte intégral ou du résumé, c'est toujours ça, et ensuite dans les textes enregistrés, actuellement nous nous servons toujours de résumés surtout -- enfin, je me corrige à la lumière de ce qui vient d'être dit parce que, de plus en plus, nous faisons des textes intégraux et je pense que, à certains égards, c'est une bonne chose mais il y a encore beaucoup de banques qui se présentent seulement en résumés, ce qui limite évidemment ce qu'on peut y trouver.

Je pense ensuite à la question de la convivialité. Au moins pour ces deux premiers aspects, c'est-à-dire la transparence et l'effort, il est vrai que nous sommes passés de l'interrogation en différé, -- au début on passait même par des cartes et on venait rechercher les réponses imprimées sur une imprimante rapide le lendemain -- il est vrai donc que nous sommes passés à la mode interactive, au mode interactif, d'ailleurs les deux, mais j'ai l'impression que tout n'est pas fait et même que ce sont peut-être là les facteurs qui me laissent le plus songeur.

D'abord j'ai l'impression que l'accès est encore relativement difficile. Il n'est pas évident, si vous avez un petit appareil micro-ordinateur sur votre table, que sans difficulté vous avez accès aux banques de données. Pour un usager, il est tout à fait déconcertant de devoir appeler maintenant trois banques à travers le pays et peut-être davantage et de devoir se servir de plusieurs langages d'interrogation différents. Il

est vrai que l'on publie, dans la dernière édition du Guide[1] que le Conseil vient de mettre sur le marché, un tableau comparatif où on dit que tel type de commande correspond à ceci dans QL, à cela dans CAN/LAW, à cela dans SOQUIJ. Parfois il y a des vides, mais ce qui frappe surtout dans le tableau c'est que c'est différent d'un système à l'autre. La permète ou la virgule a un sens dans un système, elle a un autre sens dans un autre système. Pour un usager, c'est emmerdant.

Et le quatrième facteur qui fait que pour moi sur le plan de la transparence et de l'effort on n'est pas encore allé suffisamment loin, c'est qu'on se fie toujours à la mémorisation. Il faut que vous vous rappeliez de comment chercher une expression, comment préciser la distance entre les mots ou le fait qu'ils doivent se trouver à l'intérieur du même paragraphe par exemple, plutôt que de reconnaître des options que vous voyez présentées à l'écran, et de cliquer dessus -- excusez-moi c'est du langage MacIntosh que j'utilise déjà, mais c'est pour vous dire le sens dans lequel j'aimerais aller. J'aimerais qu'on ne me dise pas "souviens-toi que tu dois faire d'abord un petit cours de repérage et ensuite tu pourras interroger". J'ai encore l'impression en me servant de ce système de devoir conduire un grand camion. Il est vrai que, quand on sait manier le camion, on peut aller loin, on peut transporter de grandes charges, mais ce n'est pas commode. Ce n'est pas la voiture automatique où je lance la voiture et je conduis tout de suite.

Pour ce qui est de la présentation des résultats, je pense que nous avons fait des progrès considérables. Il y a une visualisation très riche; nous pouvons étaler le texte intégral, des extraits souvent; nous pouvons faire de la consultation sélective assez rapidement. Je pense que, sur ce plan-là, on a fait beaucoup de progrès.

Pour ce qui est du temps épargné, je crois que, là aussi, on a fait beaucoup de progrès. Ça va beaucoup plus vite, on fait une recherche instantanée. Je vous raconterai la petite anecdote qu'il y a un mois, j'étais, avec certaines personnes ici dans la salle, à Strasbourg et je devais faire une conférence sur les questions de Look-and-Feel, questions de droit d'auteur en droit americain. Je voulais vérifier si, dans deux ou trois décisions d'appel, il y avait eu un pourvoi devant la Cour suprême des États-Unis. Eh bien, j'ai pu faire cette vérification à Strasbourg dans l'espace de dix minutes. Du côté du temps épargné, je vous dirais donc qu'on a certainement fait des progrès.

Et pour ce qui est du prix, eh bien, tout service a un prix. Je crois que c'est moins cher notamment pour ce qui est du prix, enfin aussi dans le temps, mais le prix est certainement plus intéressant qu'il l'était il y a vingt ans. *(Voir le diagramme 4 à la page 59.)*

---

[1] Conseil canadien de la documentation juridique, *Initiation à la recherche juridique assistée par ordinateur,* Ottawa, 1987.

**Nous passons d'une technologie réservée aux «fanas»
à une technologie de masse/
From technology for the enthusiastic few
to mass technology**

Buts:

- **rapatrier la technologie chez l'usager/
  bring technology back to the user**
- **la rendre invisible à l'usager/
  make technology invisible to the user**

Moyens:

- **la télécom à haute vitesse/high speed telecommunications**
- **les mémoires de masse CD-ROM/CD-ROM memory**
- **la convivialité des micro-ordinateurs (ex. Macintosh)/
  Userfriendliness of micro computers (e.g. Macintosh)**

  (chacun interrogera dans sa langue préférée, adaptera le logiciel à ses préférences/
  everyone queries the data in his or her preferred language, adapts the program
  to suit his or her tastes)

- **avances conceptuelles provenant des systèmes experts/
  new concepts coming out of research on expert systems**

Diagramme 4

Je passe donc à ce qui me semble, enfin, une petite réflexion sur l'avenir. Je vous rappelle, des présentations précédentes, que nous faisons face désormais à des montagnes de jurisprudence. Anne Foster vient de nous dire qu'à Canada Law Book, on reçoit 200 décisions par jour. J'ai fait un calcul rapide pour m'apercevoir que ça correspond à 50 000 décisions par année. Si c'était disponible électroniquement, sur dix ans nous aurions un demi-million de décisions. Je vous mets devant la taille du défi technique de vous retrouver dans cela. Et même Hugh Lawford, plus modeste, nous a promis 10 000 décisions par année. Sur dix ans, ça nous fait 100 000, sur vingt ans ça nous fait combien? C'est 200 000. Essayez de vous retrouver dans ça. C'est un défi de taille. Bon, alors qu'est-ce que nous avons, comment pouvons-nous charactériser l'époque dans laquelle nous nous trouvons?

J'ai l'impression que nous sommes en passe de progresser d'une technique réservée aux fanatiques, à une technologie de masse qui doit être utilisable par tout le monde facilement.

Quels sont les objectifs des choses que nous pouvons, que nous devons planifier pour l'avenir? Eh puis là je suis peut-être en train de spéculer, enfin faire des exercices de haute-voltige, mais je pense que je les formulerai, ces objectifs, par deux points : d'abord, je voudrais que la technologie soit rapatriée chez l'usager le plus possible. Mettez-la sur sa table de travail et faites la tourner de la manière qu'il est habitué à travailler avec son appareil et son micro-ordinateur. Et, deuxième objectif, je voudrais que, de plus en plus, la technologie soit invisible pour l'usager. Il faut qu'il s'en aperçoive le moins possible. Il faut que la technologie lui serve mais pas qu'il s'en rende constamment compte.

Quels sont les moyens que nous avons à notre disposition? Oui, nous avons la télécommunication à haute vitesse, je pense que, d'ailleurs les présentations précédentes ont insisté sur ce facteur; nous aurons très bientôt les mémoires de masse sur lesquelles nous pourrons stocker des quantités phénoménales d'information. Nous avons la convivialité et enfin la direction montrée dans le monde des micro-ordinateurs dans le domaine de la convivialité et je pense que toutes les leçons que comporte l'expérience MacIntosh n'ont pas encore été épuisées. IBM, avec son nouveau système, commence maintenant à suivre le pas, mais les systèmes documentaires, je pense, n'ont pas encore absorbé ce qu'il y a là à apprendre.

Ce que je voudrais voir réaliser sur le plan de la convivialité, c'est que chacun pourra interroger des banques dans sa langue préférée, une seule; qu'il puisse adapter le logiciel à ses préférences à lui ou à elle. Pour le moment, ces options sont probablement possibles, mais on n'y a pas encore pensé concrètement. Je pense à un système où on nous livre l'information, avec un logiciel de repérage intégré qui fait notre affaire plutôt que l'affaire de celui qui conçoit, qui diffuse la banque.

Et ensuite, dernier point, je pense, mais là nous sommes pour le moment encore dans une étape où la technologie n'est pas très avancée, mais je pense qu'il y aura des avances à introduire, qui nous proviendront de la technologie des systèmes experts. Je suis plus prudent parce que, pour le moment, ces systèmes sont encore presqu'exclusivement expérimentaux, mais j'ai l'impression qu'il y a là-dedans des choses à surveiller et je suis convaincu que dans les cinq à dix ans à venir, nous devrons faire appel à ce que nous allons découvrir dans ce secteur. Si nous pouvons réaliser toutes ces avances-là, je verrais le jour où je peux, à partir de mon bureau, avec un appareil du type MacIntosh comme j'en ai un actuellement, faire l'interrogation dans un langage qui me convient à moi, dans lequel j'ai peut-être adapté certains aspects, des banques très vastes à travers le Canada, et à l'occasion, si le domaine m'intéresse, certaines banques étrangères. Une banque aussi où je peux ajouter à la documentation brute qui m'est fournie, des rapports intellectuels qui me conviennent à moi, parce que c'est comme ça que je travaille ma documentation. Les livres que je lis, je les annote, je fais des rapports qui ne sont pas spécifiquement prévus par l'éditeur. L'éditeur ne pourrait pas prévoir ces liens. Or, je voudrais que le système électronique me permette de faire ce type d'enrichissement. Actuellement, nous n'en sommes pas encore là, mais je pense que c'est une orientation à suivre.

QUALITY CONTROL AND OFFICIAL PUBLISHING

* * *

LE CONTRÔLE DE LA QUALITÉ ET LES PUBLICATIONS OFFICIELLES

Contrôle de la qualité : développements à la Cour suprême du Canada/ Quality Control: Developments at the Supreme Court of Canada

Anne Roland

* * *

RÉSUMÉ

La Cour suprême du Canada et sa façon innovatrice d'aborder la diffusion en direct de ses arrêts sont le sujet de l'exposé de M^e^ Anne Roland, arrêtiste en chef du Recueil des arrêts de la Cour suprême du Canada. *Comme l'indique le professeur Hugh Lawford, c'est à la suite d'une demande de la Cour suprême que QL Systems a entrepris la diffusion en direct des décisions des tribunaux. À la suite du succès de cette entreprise et de l'élaboration de modèles de diffusion des décisions de la Cour suprême, d'autres tribunaux et organismes administratifs partout au Canada ont été persuadés de diffuser électroniquement leurs décisions.*

M^e^ Roland insiste sur la nécessité de conserver les mêmes normes élevées de qualité à l'égard des décisions publiées électroniquement qu'à l'égard de leurs versions imprimées. Elle mentionne les conséquences désastreuses que pourraient avoir des erreurs textuelles non seulement pour les parties intéressées, mais pour l'évolution du droit. C'est pourquoi les tribunaux et les distributeurs de décisions en direct doivent dialoguer continuellement afin de garantir ce niveau élevé de qualité.

Pour conclure, M^e^ Roland pose une série de questions qui invitent à la réflexion et auxquelles la Cour suprême doit répondre, et ultimement tous les tribunaux canadiens, à mesure que tous avanceront sur la voie de la diffusion électronique des décisions. Ces décisions devraient-elles être disponibles sur disquettes au même titre qu'elles le sont sur papier actuellement? Les tribunaux devraient-ils prendre les dispositions pertinentes auprès des distributeurs commmerciaux? Voilà seulement deux des questions que M^e^ Roland propose.

SUMMARY

The Supreme Court of Canada and its innovative approach in the online distribution of its judgments is the focus of the presentation here by Anne Roland, Editor of the Supreme Court Reports. *As Hugh Lawford pointed out in an earlier presentation, QL's initiative in online*

judgment distribution from courts stemmed originally from a request by the Supreme Court. As a result of the success encountered with this venture and the development of model judgment handling procedures by the Supreme Court, other courts and administrative bodies across Canada were persuaded to distribute their judgments electronically.

Anne Roland stresses the necessity of maintaining the same high standards of quality for judgments published electronically as for the printed version. She notes the disastrous consequences which errors in judgments could have, not only for the parties but for the evolution of law. To this end, courts and online distributors must engage in a continuing dialogue to ensure a guaranteed quality product.

In her concluding remarks, Anne Roland poses a series of thought-provoking questions that need addressing by the Supreme Court and ultimately by every Canadian court as they advance on the road of electronic judgment distribution. Questions of whether judgments should be available on diskette in the same manner as they are on paper at present, and whether courts should make arrangements with commercial distributors to accomplish this, are but some of the questions that will require answers.

* * *

In an address delivered in October 1985, at the University of Ottawa Conference on the Supreme Court of Canada, Chief Justice Dickson noted that the visibility of the Court had increased in recent years. He said: "The Supreme Court today is a very different institution than that of 1875, or 1949, or even 1974. Today, the Court's mandate is to decide issues of public importance. It stands as the final and general court of appeal for Canada, the final recourse from every court and tribunal from every part of Canada. In addition to its jurisdiction to hear all civil and criminal cases, the Court has the final word on interpretation of our written constitution and is, therefore, vested with the high responsibility of determining the constitutionality of legislation and other governmental action." In its early days, the Court was not particularly visible, but times have changed and in 1981, the late Chief Justice Laskin, reflecting on the patriation cases, remarked that: "The visibility of the Supreme Court has become higher over the last few years."[3]

This trend has accelerated with the advent of the Canadian Charter of Rights and Freedoms. *Visibility stems from at least two factors: the vision the Justices have of*

---

[3] *Address to the Continuing Legal Education Society of Nova Scotia, October 2, 1981.*

their role and function in Canadian society and the interest of the Canadian people in the decisions of the Court. While the Court is naturally a leader in the legal field, Chief Justice Dickson wants it to be a leader in other areas, such as court administration. Canadians are more aware of their rights. The courts in general, and the Supreme Court of Canada in particular, are playing a greater part in their lives. While the visibility of the Court has increased, its role and function remain to hear cases and render judgments. Visibility has a considerable impact on the way the distribution of judgments should be handled, since litigants, the press and the public at large require them immediately. To meet these challenges, the Court is therefore looking for ways to improve communication with the parties involved in a case, and with the legal profession, universities and the media.

We are not going to discuss the many innovations brought in by the Supreme Court to improve service to litigants and Canadians from coast to coast, with videoconferencing, a press room, and so on. We will focus, however, on how electronic developments can facilitate the distribution of judgments. Since the Court speaks through its judgments, it is important that they reach the legal profession quickly and in an accurate form. The Court has therefore been watching new developments in this area with interest, though it has not yet become directly involved in electronic distribution.

Present Situation

- ***Distribution of Judgments on Paper***

Let us review the present system briefly. Judgments, including headnotes and reasons in both official languages, are photocopied at the Court for distribution on judgment days. They are then sold at the Clerk of Process counter or mailed to a list of subscribers. This system has been in place for a long time.

Once all the final editorial work is completed, headnotes and reasons are sent to the Canadian Government Printing Services for printing in the Supreme Court Reports. *The* Reports *are distributed by the Printing Services distribution section. This is an outline of the distribution process for the judgments of the Court.*

- ***The Electronic World***

In fall of 1984, QL Systems began to contemplate the electronic distribution of bilingual full-text judgments of the Supreme Court of Canada on judgment days, as an addition to its online services. This new concept was well received by the Court,

since it would apparently solve the problems of using mail and courier services to get the judgments from one part of the country to the other. It was by far the fastest process possible. QL Systems started to use optical character readers to read the paper version of the reasons into its system. Within a few months, its considerable efforts paid off and it was able to make the English reasons available within a few hours (and now the French reasons within 48 hours) to its subscribers; this is a considerable achievement.

It should be noted that this venture was the brainchild of QL Systems and was made possible through its efforts alone. We have been supportive of its endeavour as this process had never been tried in Canada. QL Systems' enthusiasm was quite infectious. However, our involvement has been minimal. On the one hand, we have ensured that the paper copies of judgments are received by QL Systems as soon as they are handed down (a QL representative picks them up at the Court). On the other hand, I have been concerned about the quality of the electronically distributed texts. My discussions with my American counterparts convinced me that we had to ensure that QL Systems would get editorial changes made during the Supreme Court Reports *publishing process. QL has reacted very favourably to our demands.*

This concern about the quality of the data leads us to the second part of our discussion: quality control.

Le contrôle de la qualité dans le monde électronique

La qualité de la diffusion des jugements est extrêmement importante; or constitue-t-elle un problème dans le monde juridique? Dans notre régime juridique, l'interprétation donnée par les tribunaux du droit existant s'exprime dans leurs décisions. Les erreurs dues à la publication peuvent avoir des conséquences désastreuses non seulement pour les parties à un procès, mais pour l'évolution du droit et le public en général. On peut toutefois constater que les problèmes sont minimes dans ce secteur. Il ne fait pas de doute que tous les éditeurs ont à l'occasion reçu une lettre ou un coup de téléphone d'un juge qui critique le sommaire ou souligne l'erreur qui s'est glissée à l'impression et que personne n'a rattrapée ou de l'avocat dont le nom a été mal orthographié. On publie des errata pour y remédier. Pourquoi voyons nous maintenant apparaître cette préoccupation de la qualité de la diffusion électronique des jugements?

1. Le réflexe professionnel

Les éditeurs de jurisprudence, commerciaux ou publics, comme dans le cas de la Cour suprême et de la Cour fédérale, ont recours à des avocats pour résumer les

décisions et contrôler le processus de publication. Il existe donc une entente tacite avec les tribunaux, une appartenance à un monde qui se sent peut-être menacé par l'arrivée de la haute technologie et des informaticiens. Il est vrai que plusieurs éditeurs de recueils de jurisprudence sont en train de créer des banques de données. Ils ont donc une vaste expérience du domaine. Mais, il ne fait pas de doute que les juristes vont devoir apprendre à travailler avec cette nouvelle technologie pour que la composante professionnelle subsiste. Il faut surtout que la sécurité qui a régné dans le domaine de la publication des décisions et qui est indispensable dans notre régime juridique soit maintenue.

2. *La rapidité du processus*

La grande qualité de la diffusion électronique est sa très grande rapidité. Il est tout de même fantastique qu'une décision rendue un jour donnée à Ottawa soit disponible quelques heures plus tard dans tout le Canada. La rapidité est aussi d'une grande utilité pour la recherche électronique qui permet de "parcourir" une grande quantité de données en un temps record.

Le processus de transmission électronique est quasiment instantané. Les données sortent de l'équipement qui a permis de les créer ou de les emmagasiner, puis par un réseau de diffusion se rendent chez les usagers. Cela crée toutefois des difficultés d'ordre technique. Il peut arriver que des éléments de données ne soient pas transmis par le réseau ou soient perdus dans le processus. L'usager se trouve alors dans une situation critique. Ou bien il s'en aperçoit et il peut faire des réclamations, mais ceci ne lui donne pas accès aux données; ou bien il ne s'en aperçoit pas et il se sert de données tronquées. Bien sûr si le réseau est défectueux, un signal en avisera normalement l'usager. Mais si les données défectueuses se trouvent dans la mémoire de l'ordinateur principal, l'erreur sera beaucoup plus difficile à déceler. Il est en effet facile de dire "consultez la banque de données et vous aurez instantanément les décisions de tous les tribunaux", mais encore faut-il que le contenu soit valable. Ce genre de situation se produit avec les textes sur papier, mais du fait qu'ils sont scrutés à plusieurs reprises tant avant que les décisions ne circulent qu'immédiatement après, les risques de disparition de phrases ou de paragraphes entiers sont de beaucoup réduits.

3. *Le contrôle technique de la qualité*

Nous ne parlerons pas ici du fond des décisions! La qualité dont nous parlons est la qualité technique. Disons, par exemple, qu'à la Cour suprême, les arrêtistes essaient de s'assurer que les références de jurisprudence, des lois, et de la doctrine citées sont exactes. Les citations sont passées au crible. Pourtant, souvent faute de

temps, des inexactitudes s'y glissent. Or il est sûr que certaines erreurs dans ce domaine peuvent créer de sérieuses difficultés aux usagers. Dans le processus classique de publication, les jugements sont passés au peigne fin avant d'être expédiés à l'imprimerie, les erreurs de référence sont rectifiées et les textes cités vérifiés. À la Cour suprême, la proximité des juges nous permet d'établir un dialogue fructueux. Parfois les éditeurs échangent entre eux sur leurs difficultés, quoique le plus souvent chacun fasse son travail en vase clos. Certains tribunaux, la Cour suprême du Canada en tout cas, font circuler des révisions si une erreur s'est produite et que personne ne l'a rattrapée avant le prononcé du jugement. Mais, somme toute, les tribunaux semblent faire confiance aux éditeurs pour rattraper les inexactitudes et, à l'occasion, pour leur signaler des erreurs plus importantes.

Pour que les juristes et autres usagers puissent utiliser avec un maximum de sécurité les données emmagasinées dans les banques, il faudra que les organismes qui gèrent ces banques et assurent la diffusion des données mettent sur pied un système structuré de contrôle du contenu technique, tout comme les éditeurs d'ouvrages classiques. À défaut de faire cet effort particulier, la consultation des banques sera utile pour ce qui est de la rapidité, mais le contenu sera trop aléatoire. Quel avocat oserait se présenter en cour avec un imprimé tout frais de la dernière décision de la Cour suprême du Canada, s'il n'est pas sûr qu'il ne manque pas un alinéa?

Il me semble important de chercher à éviter les difficultés, peut-être marginales mais néanmoins réelles, que rencontrent les arrêtistes américains dans leur rapport avec les banques de données.

In 1985, the Association of Reporters of Court Decisions held its annual meeting in San Francisco. It was attended by law editors (called Reporters in the U.S.) from more than 25 states and several federal jurisdictions, who publish the official reports of the various States, the United States Supreme Court and two other federal courts. Representatives of Lexis and Westlaw had been invited to discuss problem areas in the distribution of judgments. The discussion started with a list of demands from the databanks. Everyone was considering what could be done. Their problems were of great interest to me, since I knew that we were slowly going in that direction and it was very interesting to find out what to avoid. After a while, one of the Reporters interjected to say that all that was very good but that it might be about time for the databanks to talk to the Reporters on a regular basis and to do their homework properly. It seemed that the databanks were getting the reasons from the clerks of process of the various courts and, because of stringent deadlines and competition, were inputting the decisions to their banks without ensuring any follow-up. Although the Reporters' offices regularly made significant changes to reasons (sometimes on substantive questions), the data was never updated in the bank. Of course it is fast, but reliability is not the best feature. The Lexis and Westlaw representatives were

very surprised and promised to look into this matter. However, two years later, I am told that no progress has been made in this respect.

Bien sûr, la situation est très différente au Canada, mais ce genre de difficulté pourrait surgir et il faut en être conscient et prévoir des mécanismes pour les éviter.

Conclusion

The Supreme Court has not been idle with regard to the electronic world. Many new developments have taken place in the Supreme Court itself. It has definitively done away with the quill pen. After a thorough study, the Court acquired micro-computers to facilitate the judgment-drafting function, publication of the Supreme Court Reports *and other administrative functions in the Court. All the Justices' chambers have been equipped, my office is totally computerized, computerization of the Clerk of Process function is under way, and further developments are considered. We find ourselves at a crossroads as far as the distribution of judgments is concerned. For distribution purposes, should we look further into using the diskettes on which bilingual reasons for judgments are now produced? There are several possibilities: Should the Court itself get into the online distribution of judgments? Should it use an electronic mailbox? Should it make judgments available on diskettes as they are on paper? Should it make arrangements with a commercial distributor? These questions are being considered, and I hope today's Forum will help the Court in its decision-making process, with a view to improve service to the legal profession and the public at large.*

Quoi qu'il en soit, il serait ridicule et rétrograde de se plaindre de l'avènement de la diffusion électronique des jugements. Il faut s'en réjouir et les tribunaux et les usagers devront apprendre à s'en servir. C'est un grand pas vers la diffusion plus rapide et plus efficace des décisions des tribunaux. Avec la *Charte*, ces décisions touchent de plus en plus directement tous les Canadiens qui ont le droit, par l'intermédiaire des avocats et de la presse, de savoir ce qui se produit devant les tribunaux. Ce rôle d'information que jouent les banques de données comporte des obligations, dont celle de s'assurer que les données diffusées sont exactes et complètes. Il leur appartient de mettre en place des mécanismes de contrôle pour s'assurer que tel est le cas. Pour ce faire, elles devront entretenir des relations suivies avec les tribunaux et engager les professionnels nécessaires pour garantir la qualité de leur produit. De leur côté, les tribunaux devront leur assurer les mêmes services que ceux qu'ils fournissent, le cas échéant, aux éditeurs. Ce colloque constitue une ouverture du dialogue qui doit s'instaurer entre nous tous.

Quality Control and Law Reporting

Gary P. Rodrigues

• • •

SUMMARY

In discussing quality control in the online publication of judgments, Gary Rodrigues, Vice-President and Executive Editor, Carswell Legal Publications, sets the issue in its historical context. Concerns for quality control, observes Mr. Rodrigues, have been present from the earliest days of law reporting.

Quality control in paper copy law reports, notes Mr. Rodrigues, consists of the five main traits of accuracy, selection of cases for reporting, standardized references, currency and timeliness. While a high degree of accuracy can be achieved with hard copy law reports, Mr. Rodrigues comments that this same level of accuracy cannot be guaranteed with online publishing of judgments. This results from problems in the transmissions of judgments online or when optical scanners are used. Standardizing case references becomes even more crucial in an online environment, argues Mr. Rodrigues, while the need for selecting cases worthy of reporting remains equally as important as it is at present in a hard copy regime.

At the same time that online access results in quicker access to judgments, Mr. Rodrigues warns that "great care must be taken to ensure that the more important and enduring values such as accuracy, standardized references and selection are not sacrificed to achieve it".

RÉSUMÉ

Dans son exposé sur le contrôle de la qualité de la publication en direct des décisions, M^e^ Gary Rodrigues, vice-président et rédacteur en chef de Carswell Legal Publications, situe la question dans son contexte historique. Depuis les tous débuts des recueils de jurisprudence, la question du contrôle de la qualité, observe M^e^ Rodrigues, a été omni-présente.

Le contrôle de la qualité des recueils de jurisprudence en clair, ajoute M^e^ Rodrigues, tient à cinq éléments importants, soit l'exactitude, la sélection des causes à rapporter, la normalisation des renvois, l'actualité et la ponctualité. Bien qu'il soit possible de parvenir à un

degré élevé d'exactitude dans les recueils de jurisprudence en clair, M^e Rodrigues ajoute que ce même niveau d'exactitude ne peut être garanti en matière de diffusion en direct, une situation qui est attribuable à des problèmes de transmission en direct ou à l'utilisation de lecteurs optiques de caractères. La normalisation des renvois devient encore plus difficile, soutient M^e Rodrigues, et la nécessité de faire une sélection de causes valables demeure tout aussi grande.

S'il est vrai que l'accès en direct signifie un accès plus rapide aux décisions, M^e Rodrigues prévient "qu'il faut néanmoins s'assurer que les éléments les plus importants et durables, comme l'exactitude, la normalisation des renvois et la sélection des causes, ne sont pas sacrifiés".

* * *

A Forum on the many and important issues surrounding the distribution of judgments in electronic form would be incomplete without some consideration of the history and practice of distributing judgments in hard copy. As George Santayana is reported to have said, "Those who cannot remember the past are condemned to repeat it."[1]

For this reason, I have chosen to discuss the issue of quality control in its historical context. I will attempt to define "quality", describe how it is achieved, and touch on the question of who should be responsible for quality control.

Who Should Be Responsible For Quality Control?

In considering this question, it is worth noting that the distribution of judgments in hard copy by commercial suppliers of legal information preceded by several hundred years the development of the comparatively modern theory of the binding effect of precedent.[2] It was the publication of the law reports that resulted in the theory of precedent and not the theory that created the need for law reports. Further, there were commercial distributors of judgments long before there were law societies and legal information councils and long before governments expressed the slightest interest in the subject. The history of these events has been fully described by Sir William

---

[1] Robert I. Fitzhenry, ed., *The Fitzhenry & Whiteside Book of Quotations* (Toronto: Fitzhenry & Whiteside, 1981), s.v. "history".

[2] W.J.V. Windeyer, *Lectures on Legal History*, 2nd ed. (rev.) (Sydney: Law Book Company, 1957), 188.

Holdsworth in his multi-volume work on the *History of English Law,* which I would recommend to anyone interested in pursuing this subject further.[3]

From the very earliest days of law reporting, there were problems with quality control. Sir William Blackstone had this to say about the distribution of judgments in hard copy:

> This task has been executed by many private and contemporary hands, who, sometimes through haste and inaccuracy, sometimes through mistake and want of skill, have published very crude and imperfect (perhaps contradictory) accounts of the one and same determination.[4]

A number of attempts were made to resolve these problems over the centuries, most notably through the use of authorized or official reports and the device of restricting the citation of decisions in court to authorized series. According to Sir William Holdsworth, these efforts were ultimately abandoned because the official reports were invariably slow and expensive.[5]

In Canada today, the official reports have the same reputation for being slow and they are certainly expensive to produce. In part, this is attributable to the need for accurate and authoritative translations of court decisions. Recent improvements in the currency of the *Supreme Court Reports* merely serve to emphasize how slow they have been in the past. On the other hand, our official reports do not have the reputation they deserve for being expensive because the true cost of producing them is masked by the artificially low price that is set for them by the federal government. It would be a very different matter if the Bench and Bar, not the taxpayer, had to bear the full costs of production.

Ultimately, it was recognized that reliance would have to be placed on the reputation for quality of each series of law reports and of their editors and publishers. In the United Kingdom, the courts came to require that the barrister who prepared the summary (and who was frequently also the publisher of the series of law reports)

---

[3] Sir William Holdsworth. *A History of English Law* (London: Methuen, 1965), 16 vol.

[4] 1 Bl. Com. 71, 72.

[5] Holdsworth, *op. cit.*, 257-258. See also W.T.S. Daniel, *The History and Origin of the Law Reports* (London: Wildy & Sons, 188?), 23-26.

affix his name to a published report in order for it to be accredited and cited as authority in a court. Law reports with bad reputations were ignored and fell into disuse.

In Canada, the names of certain publishers have come to have the same significance as did the names of barristers in the United Kingdom. For more than a century, the names "Carswell" and "Canada Law Book" affixed to law reports have sufficed for them to be accredited and cited as authority in Canadian courts. More recently, "SOQUIJ" has joined the ranks of recognized names in Canadian courts. The reason for this is clear: a reputation for quality that is frequently taken for granted by members of the legal profession. In the distribution of judgments online, the jury is still out. I would venture to say, however, that any supplier of judgments online that acquires a reputation for poor quality will ultimately fall into disregard and be ignored, just as law reports of poor quality have been abandoned before now.

Defining and Controlling Quality

The term "quality" is used to refer to "the degree of excellence which a thing possesses".[6] When applied to the distribution of judgments in hard copy, it means accuracy, selection, standardized references, currency and timeliness. Excellence is achieved by "quality control", the strict adherence to standards and procedures that have withstood the test of time.

Accuracy

In the 1600s, Bacon set the standard for the distribution of judgments in hard copy when he urged that the law reports "record the judgments themselves word for word".[7] This standard is as valid today as it was then, and it applies equally to decisions distributed in hard copy or in electronic form.

The essential first step in producing accurate law reports is to obtain a true copy of the complete judgment. At Carswell, we have in place a judgment retrieval system supervised and directed by legal editors who are also members of the legal profession. It is their responsibility to see that the judgments are obtained from the court, recorded in our "electronic carding system", and then forwarded to the appropriate editorial board for consideration for possible publication in one of our series of law

---

6 *Webster's New World Dictionary*, s. v. "quality".

7 Windeyer, *op. cit.*, 187.

reports. Where relevant, notations on the prior history of each judgment are added to the control document that is affixed to each judgment at the time it is "carded".

The next step in producing accurate law reports takes place after the judgment has been selected for reporting and the headnote prepared. Highly trained professional editors review the judgment for the purpose of verifying the accuracy of quotations and other references, standardizing statute and case references, and preparing the copy for typesetting. It is at this stage that serious errors may be discovered that require us to contact the court for clarification and correction. These errors have included such discrepancies as: a judgment that appeared on its face to have been made pursuant to a section of a statute that had been repealed; and, two copies of the same judgment, issued on the same day by the same judge but with completely different conclusions.

The third step in producing accurate law reports occurs after the decision has been typeset. It is at this stage that the galley proofs are read word for word and line by line against the edited version of the original judgment. All typographical errors, dropped or missing words, lines and sometimes paragraphs, are noted before the galleys are returned to the typesetter for the preparation of the page proofs or art boards. Only after our production staff have reviewed the page proofs to ensure that all corrections have been made, is authorization given for publication. At that point, an accurate copy of the judgment is fixed in print for all time.

In the distribution of judgments online, the same degree of certainty as to the accuracy of a judgment is never achieved. When a judgment is being transmitted online from a court to QL Systems, for example, problems with telephone connections and incompatible or substandard equipment at either end may result in a corrupted text of the decision. Only if it is proofread line by line and word for word against a hard copy of the original can one be certain that QL Systems in fact received an accurate version of the text. Regrettably, this does not appear to be happening. Optical scanners result in the same problems if the judgments online are not proof-read against the original. A further corruption of the same text may result from its transmission by QL Systems, or by any other supplier of judgments online, to the user of the system.

Standardized References

I have referred above to the standardization of statute and case references to ensure that they conform to the norms established for facilitating legal documentation and research. These forms are set out in such publications as the McGill Law

Journal's *Canadian Guide to Uniform Legal Citation* and CLIC's *Standards for Case Identification*.

It is a fact that judgments are written in many different styles with widely varying degrees of attention paid to established norms. Further research on a point of law may be impeded or blocked altogether if a reference is incomplete or incorrect. For this reason, the practice of standardizing references was introduced into "quality" law reports. In the searching of legal databases online, standardized references are of even greater importance.

Case Selection

Quality in law reports means selection. In the distribution of judgments, it is necessary to distinguish the wheat from the chaff. British Columbia and Alberta each generate more than 4,000 judgments per year. Quebec generates 12,000 judgments per year. The great majority of these judgments either have no value as precedents or merely illustrate the application of established principles to slightly different fact situations. The need for selection in such a situation is obvious.

At Carswell, the selection of judgments for reporting in full text is generally made by editorial boards drawn from the academic community and the practicing bar. They select judgments for reporting using established principles of selection, based on their value as precedents that have evolved over a century of experience. Other publishers use similar principles of selection. Recently, the Law Reporting Committee of the Canadian Law Information Council has undertaken a review of the various principles of selection that are in use in Canada today for the purpose of preparing one set of national standards for case selection, something that is most welcome. These national standards should be applied in distributing judgments in hard copy and online.

Currency and Timeliness

Currency and timeliness are also important in the distribution of judgments in hard copy, and every effort is made to publish judgments as fast as possible. It must be noted, however, that this objective is somewhat incompatible with accuracy, selection and standardized references, in that a minimum of three months is necessary to ensure such results in a law report.

The primary benefit expected to be gained by the distribution of judgments online is "speed". It is noteworthy that the phrase "timeliness and currency", which is used to refer to hard copy, becomes "speed" when referring to the distribution of judgments online. There are times when speed is everything in terms of gaining access to the

most recent decision on a point of law in preparing for an individual case, but great care must be taken to ensure that the more important and enduring values such as accuracy, standardized references and selection are not sacrificed to achieve it.

In that regard, I would like to conclude by paraphrasing an earlier quotation from Sir William Blackstone and say, as I am sure that he would say today, that:

> This task must not be executed by many private and contemporary hands, who, sometimes through haste and inaccuracy, sometimes through mistake and want of skill, distribute online very crude and imperfect (perhaps contradictory) accounts of the same decision.

Quality Control and the Ontario Reports

Gordon Henderson, Q.C.

* * *

SUMMARY

The role of the Law Society of Upper Canada as the publisher of the Ontario Reports *and with the responsibility for ensuring its quality, forms the basis of the presentation by Gordon Henderson, Chairman of the Database Subcommittee of the Law Society's Library and Law Reporting Committee. Quality control, in Mr. Henderson's view, consists of five main ingredients: access, accuracy, timeliness, cost and case selection. Although online distribution may bring improved and faster access to judgments, Mr. Henderson raises concerns for the increased costs of access brought by a proliferation of databases, each with its own principles of case selection.*

Questions of copyright in law reporting are raised for discussion, and as Mr. Henderson points out, there is a degree of uncertainty surrounding this issue. The Law Society of Upper Canada with its statutory authority and proprietory interest in the headnotes in the Ontario Reports, *has been able to assure the quality of the publication. With an official interest in quality control, Mr. Henderson concludes that the Law Society of Upper Canada will continue to play a considerable role in developments respecting judgment distribution in Ontario.*

RÉSUMÉ

Le rôle de la Société du Barreau du Haut-Canada en tant qu'éditrice des Ontario Reports *et son obligation d'en garantir la qualité, forme le sujet de l'exposé de Gordon Henderson, président du sous-comité des bases de données du comité de la bibliothèque et des recueils de jurisprudence de la Société. Le contrôle de la qualité, selon M^e^ Henderson, comprend cinq grands éléments: l'accès, l'exactitude, la ponctualité, les coûts et la sélection des causes. Bien que la diffusion en direct puisse améliorer et accélérer l'accès aux décisions, M^e^ Henderson s'interroge néanmoins sur l'accroissement des coûts de cet accès découlant d'une prolifération de banques de données, chacune ayant ses propres principes de sélection des causes.*

M^e^ Henderson mentionne les questions relatives aux droits d'auteur des recueils de jurisprudence, qui laissent planer certaines incertitudes.

La Société du Barreau du Haut-Canada, qui est l'autorité statutaire et détient les droits de propriété des sommaires publiés dans les Ontario Reports, *a toujours été en mesure d'en assurer la qualité. Grâce à son intérêt officiel pour le contrôle de la qualité, la Société du Barreau du Haut-Canada continuera, selon M^e Henderson, à jouer un rôle important dans l'évolution de la diffusion des décisions en Ontario.*

* * *

I would like to stress the following words in the title of this panel: **quality control** and **official publication**. I would like to discuss them from the standpoint and the perspective of the province of Ontario and the Law Society of Upper Canada. As indicated by the moderator of the panel, the Law Society has a legitimate interest in the publication of law reports in this province, and more particularly, in the quality of that reporting. In my opinion, the Law Society must be a major player in any consideration of law reporting in Ontario.

At the outset, let me acknowledge the input of all the publishers to the Sub-committee of the Law Society that has been studying this subject matter. We have received advice from all the publishers as to the policy which ought to be adopted. I am sure you will not be surprised that it was not uniform. Martin Felsky also has been an advisor to the Sub-committee and I would like to acknowledge here how much his assistance has aided us.

The Law Society's concern is that judgments of the courts in Ontario be available to the profession, to the judiciary and to the public, in whatever form, be it online, hard copy, or optical disk. They must also be accurate, timely, produced at reasonable cost and with an intelligent selection.

Quality from our viewpoint has at least five facets:

- access to the reports;
- accuracy of the reports;
- timeliness in publication;
- cost; and
- a reasonable case selection.

Historically, the Law Society has exercised control of judgments and their dissemination in Ontario from three separate, but interrelated sources: first, the Law Society's statutory responsibility that has just been referred to; second, copyright; and third, contract. Let me deal with these.

Statutory responsibility is found in s. 63, ss. 5 of the *Law Society Act* which was enacted in 1970, and is now found in the Revised Statutes of Ontario 1980, c. 233. Let me quote it:

> Subject to the approval of the Lieutenant-Governor in Council, Convocation may make regulations respecting any matter that is outside the scope of the rule making powers specified in section 62 and, without limiting the generality of the foregoing ...
>
> (v) Respecting the reporting and publication of the decisions of the courts.

The legislation contemplates that the Law Society, as I have indicated, has the authority to regulate law reporting in Ontario. No regulations have been promulgated and, to date, it has not been necessary for the Society to intervene. However, forces are obviously at play that may make it necessary for the Law Society to recommend to the Lieutenant-Governor in Council that regulations be enacted. The regulations would ensure standards in law reporting and at the same time, guarantee quality control in the broad terms in which I have defined them.

The most obvious reason is the recent growth of specialty reports and the publication of a multitude of law reports. Although these reports address the problems of accessibility and timeliness, concern has been expressed as to whether the cost for the consumer will increase and accuracy suffer.

The second obvious force has been discussed here today. The computer has led to new and accepted methods of law reporting. There is concern in the profession, however, that a proliferation of databases will increase the cost to the user. Will the consumer be obliged to access a number of databases for the sake of abundant caution? Will the case selection be different and, if so, what effect will it have on costs? On the other hand, should the forces of the marketplace prevail as they do now? And if so, anyone who wishes to enter the marketplace would be free to do so based on the theory that if a new product does not meet the needs of consumers, it will wither on the vine.

Optical disks are not far away. What effect will they have on hard copy law reports and online retrieval? These issues are now before us. The uncertainty surrounding copyright and the mercurial nature of the marketplace have been such that the Law Society has not yet considered it necessary or appropriate to exercise its regulatory authority. But, as I have indicated, this situation may change. On the specific question of coloured quality, the issue will always remain: "Is more, as has

been suggested here, better?" Or, is an increase in the quantity of information in a system necessarily better? Junk in--junk out.

On the other hand, he who selects, dictates the course of reporting.

Quality control may involve quantity control. What is the value of two-page judgments or endorsements on the record, one may ask? Should we be reporting all judgments from the lower courts, small claims courts, family courts, and all district courts? If so, the mass of material will be phenomenal. We have just heard that fifteen percent of 10,000 judgments rendered is considered to be a reasonable number of judgments selected for reporting. On the matter of case selection, though, surely the jury is still out. In any event, we hope that the discussion at this Forum will provide a better understanding and a greater appreciation of what the picture should be.

I do not want to over-stress the situation, but the *Ontario Reports* themselves constitute an extremely significant system of law reporting in Ontario. As a result, any policy decision taken by the Law Society will have an impact on law reporting generally in Canada, as the largest demand for reports is from the province of Ontario. The greatest number of lawyers in Canada reside in Ontario and most of them are in Toronto. In any event, we have to face the facts of life. The *Ontario Reports* constitute a significant contribution towards law reporting.

The area in which copyright now subsists in respect of law reports is controversial. It is even more controversial as to who is the owner of copyright at the present time. Controversy arises in relation to the reasons for judgment, but not the headnotes and perhaps not the catch notes and the numbering on the side. If you are interested in exploring this subject further, you will find a very interesting article written by Gerard Snow who addressed this problem. If some of you remark that I am reporting or advising on a matter that I should not, I will do so anyway. The Snow article is a highly regarded one, which raises the problems. While Snow does not solve all the problems, it is generally accepted that copyright subsists as I say in headnotes and catch phrases and that is where the Law Society's control arises. We enjoy copyright in the headnotes and in the catch phrases, and that copyright enables us to exercise the third element of control, because by having control in the headnotes in the past, we have been able to enter into contracts which enlarge that control by giving us contractual rights.

These rights, as I have noted, provide a valuable asset which enables the Law Society to deal with both the hard copy publication and with databases. Copyright and the regulatory position has enabled the Society to enter into contracts with Canada Law Book as to the hard copy publication, and with QL Systems, as to the

Ontario Reports databases. Both of these services are presently provided to the profession.

Copyright in respect of judgments, I said, is controversial. Mr. Snow has dealt with the issue in a thorough manner, but it may well be that this issue will cease to be a problem if the new *Copyright Act* is enacted. I do not think that I will see it in my lifetime. It has been recommended by the joint Parliamentary Committee that copyright in relation to the reasons for judgment should fall into the public domain. This will, then, put greater emphasis on the copyright in headnotes in law reports.

I think it is probably a better theory that Crown prerogative is the basis for copyright which is vested in Her Majesty since section II of the *Act* presupposes the existence of copyright. That raises a question, though: in which level of government does that Crown prerogative subsist? If it subsists in the provincial power, then of course, you can envision what this would mean in terms of the Law Society's position. I have just raised this as an issue to say that the Law Society's role in relation to judgments is an important one.

The fact is, as you have heard it here from everyone, judgments are available to anyone, and no doubt this is the way that it should be. The public should have access and the press should have access. When judgments are reproduced for commercial purposes, however, the Law Society has an interest in quality control. It has been given an official interest in matters of quality control. Where the public interest lies raises a multitude of considerations which, from the standpoint of the Law Society, have not, as yet, been clearly delineated. This issue cannot be ignored and more specifically what cannot be ignored is the fact that the Law Society has a role to play and it is, at present, studying that role. As I indicated, this Forum assists it in defining that role. In closing, I ask that you do not forget that the Law Society is a player in the circumstances.

Quality Control at Info Globe

R.J. (Bob) Huggins

* * *

SUMMARY

R.J. (Bob) Huggins, Info Globe's Regional Sales Manager for Eastern Canada, comments on the development of Info Globe, the electronic publishing arm of The Globe and Mail. *Since its beginnings in 1977, Info Globe has shifted its focus from providing primarily news-related information to business-oriented information. This development is highlighted by the availability of databases such as* Marketscan, *with stock market information and the* Canadian Financial Database, *containing information on Canadian companies.*

The past few years have witnessed a tremendous increase in the number of databases added to Info Globe. Among one of its accomplishments, notes Mr. Huggins, is the provision of "time-sensitive" information, the value of which is "measured as a delivery mechanism, rather than as a historically-based product".

Considerable stress is placed on ensuring the accuracy of the information contained in Info Globe databases. Mr. Huggins describes in some detail the processes involved in assuring this accuracy in three of Info Globe's databases.

RÉSUMÉ

Gérant régional des ventes à Info Globe dans l'Est du Canada, R.J. (Bob) Bob Huggins parle de l'évolution d'Info Globe, la société responsable de la diffusion électronique du The Globe and Mail. *Depuis ses débuts en 1977, Info Globe est passé de la diffusion des actualités à la diffusion de nouvelles d'orientation commerciale. En effet, des banques de données comme* Marketscan, *qui donne des renseignements sur le marché boursier, et* Canadian Financial Database, *qui contient des renseignements sur les entreprises canadiennes, sont la preuve de cette évolution.*

Depuis quelques années, il y a eu une augmentation remarquable du nombre des banques de données d'Info Globe. Au nombre des réalisations de la société, ajoute M. Huggins, nommons la diffusion d'information "à temps critique", dont la valeur "réside dans le

mécanisme de diffusion plutôt que dans le produit en tant que fait historique".

M. Huggins insiste particulièrement sur l'exactitude de l'information contenue dans les banques de données d'Info Globe. Il décrit de façon assez détaillée les processus qui assurent l'exactitude dans trois de ces banques.

* * *

I would like to thank the Canadian Law Information Council and Martin Felsky for the opportunity to speak to you today. Info Globe, the electronic publishing division of *The Globe and Mail* was established in 1977 as a commercial vendor of online information. *The Globe and Mail* was the first newspaper in the world to make both the print and electronic editions available simultaneously. Info Globe has grown from its early days as a supplier of electronic news-related information to a predominantly business information carrier. Our growth has been influenced by the need for credible corporate information, in an up-to-date, cost-effective manner. Info Globe has risen to the challenge, by providing accurate and comprehensive management tools for today's business climate. Today, I will focus on the importance of accuracy in our products and what it means to our clients and organization as a whole.

Info Globe has approximately 7,000 client identifications in force throughout North America, and in various parts of the world. Over 90 percent of our sales are generated in this country, and to this end, we have concentrated our efforts in creating Canadian business products. *The Globe and Mail Online* is made up of more than 860,000 articles spanning the years 1977 through today. *The Globe and Mail Online* contains all articles from editions of the newspaper, with the exception of the stock market pages, obituaries and of course, comics. Since the introduction of our flagship product, we have introduced *Marketscan,* a comprehensive stock market database that lists high, low, close and trade volume figures from all Canadian exchanges, the AMEX, the New York Stock Exchange and the NASDAQ exchanges. *Marketscan* has a Canadian bond database and is the only Canadian source of online mutual funds.

In 1983, Info Globe, in cooperation with six major accounting firms and the Canadian Institute of Chartered Accountants, created the *Canadian Financial Database*. The *Canadian Financial Database* represents over 550 Canadian companies, annual report data, including notes to the financial statements. The *Canadian Financial Database* was followed up by the introduction of the *Report on Business Corporate Database*, a database containing over 2,500 Canadian companies, financial statements, including balance sheets, income statements, changes in financial position, ratios and industry specific information. The *Report on Business Corporate Database* is also primary in creating *The Globe and Mail's Report on Business 1000*, a comprehensive

listing of the top 1,000 Canadian companies. In the last few years, Info Globe has aggressively added new database products, including:

- *The Northern Miner*
- *The Canadian Periodical Index* (both online and print)
- *Canadian Index of Computer Literature*
- *Computing Canada*
- *Personal Search*
- *Who's Who Online*
- *Creditel Online*
- *Key Government Documents Database* (TAXNET)

Info Globe has been associated with the Canadian legal audience from the beginning of our database products in the late 1970s. In 1983, Info Globe marketed Canada Systems Group's *Insight* databases, which, of course, included a trademark and NUANS corporate name database. In 1985, the release of federal budget information caught the attention of Supreme Court Justice Willard Estey and a meeting between Info Globe and the Court ensued. Info Globe pioneered the release of "time-sensitive" information, essentially information whose value was measured as a delivery mechanism, rather than a historically-based product. During our meeting with Justice Estey, it was made clear that Info Globe would be keenly interested in Supreme Court judgments, as of release, and would be willing to participate in a trial once the Supreme Court was fully automated sometime in 1988.

Quality Control and Info Globe

Info Globe, as a division of Canada's paper of record *The Globe and Mail,* places a tremendous amount of emphasis on accuracy, both in print and online products. Today, I will speak to you about three of the online products that face rigorous quality assurance testing. First, *The Canadian Financial Database* is a product that was produced as a quality control tool for accountants. It provides cross-matching of footnotes to the accounting policy section of annual reports in literally seconds, as opposed to hours of manual analysis. This product was made possible with the advent of sophisticated optical scanning equipment. Each annual report is "scanned" through the machines to convert from print to a machine-readable form. As the font changed from report to report, the optical scanner had to be "taught" to recognize each new character. This process combined with various assortment of paper types, would at times, slow the scanning process considerably.

Beyond the entry level of print to machine-readable text is, of course, the verification of numbers from the financial statements. Not only are the numbers verified to the physical paper, but there is also a computer checking of numbers for any

variances that may have been created throughout the entry process. Even though the process is multi-stepped, the error rate is quite low thanks to our team of financial analysts. In one instance, Info Globe has reported back to a company that their balance sheet was out by over $600,000 as a result of a typographical error.

The *Report on Business Corporate Database* is responsible for the creation of *The Globe and Mail Report on Business 1000* magazine available each June. The *ROB 1000* is Canada's most complete accounting of corporate performance available. Canada's corporate elite is displayed by sector, against competition and rankings in several categories. A wealth of information that *The Globe and Mail* has accumulated since 1974, has enabled such a large, accurate and complete database product. Again, at the heart of production, lies financially-trained resources who verify computer check after computer check to ensure accuracy. Sources for the product include annual reports and corporate information from Consumer and Corporate Affairs Canada. This database represents virtually every publicly-traded company in Canada, in addition to private firms and crown corporations.

Finally, I will speak to you today about the *Key Government Documents Database* (TAXNET). As a result of the availability of the first federal budget in 1985, Info Globe witnessed the popularity of information delivered to a corporate audience without editing. As you know, in Canada, tax policy is usually made on the run by press release. These releases can have a major effect both on individuals and corporate entities. The challenge for Info Globe was to find an effective means to receive data, massage the data to fit our system, and then turn it around in a short period of time to our clients. Initially, this was achieved by striking agreements with the Department of Finance and Revenue Canada, both Taxation, and Customs and Excise.

Each of the departments agreed to send a transmission from their word-processing units or microcomputers responsible for the creation of press releases. The releases are received at a microcomputer at Info Globe's Ottawa office where final enhancing is completed by the project coordinator. Within minutes of receiving the file, clients throughout North America can access the full text of the document.

The bottom line in quality control at Info Globe is that there is no room for compromise in the production cycle of any product. Our lifeline as a company in a "pay-as-you-go" environment is to provide quality, highly accurate and timely information to satisfied clients. Satisfied clients, combined with our pride in detail, allow us to grow as a Canadian online product vendor. Growth provides us room to create new product vehicles and maintain our pre-eminent position in the online community.

In closing, I would just like to say that the online industry as a whole is still very much in its infancy and it will be exciting to watch technological developments of the

future. We have already seen the introduction, in a limited way, of compact disc technology. It is technology that will affect how the online industry develops in the future. As microcomputers advance in capacity and speed, so too will accuracy and reliability of data improve. I look forward to the next decade in the online industry.

LUNCHEON ADDRESS

* * *

ALLOCUTION PRONONCÉE PENDANT LE DÉJEUNER

LUNCHEON ADDRESS/
ALLOCUTION PRONONCÉE PENDANT LE DÉJEUNER

Frank Iacobucci, Q.C.

• • •

SUMMARY

CLIC was fortunate to have, as a guest luncheon speaker, Frank Iacobucci, Q.C., Deputy Minister of Justice and Deputy Attorney General of Canada. In his speech, Mr. Iacobucci emphasizes the necessity of addressing the issues concerning electronic judgment distribution, and developing policies that ensure equal and easy access to judgments not only for the legal community as a whole, but also for the public.

Mr. Iacobucci illustrates, through a series of examples, the extent to which technology has affected our lives, while at the same time reflecting that technological developments have "always had an unanticipated impact on traditions".

Since the national study of lawyers' information needs Operation Compulex *was published fifteen years ago, the role of computers in legal research has increased dramatically, observes Mr. Iacobucci. Computers are no longer viewed as "a weak supplement to the manual tools".*

Online judgment distribution, in Mr. Iacobucci's view, is appealing because it can provide access to judgments quickly and equitably throughout Canada. But on a more cautionary note, the needs of the public and the press for legal information must be taken into consideration. National standards must be developed, Mr. Iacobucci notes, to ensure that national networks are not prohibitive in cost and that they serve the needs of both official languages and legal systems in Canada.

RÉSUMÉ

Le CCDJ s'estime fortuné d'avoir pu entendre comme conférencier invité à son déjeuner, Frank Iacobucci, c.r., sous-ministre de la Justice et sous-procureur général du Canada. Dans son allocution, M^e^ Iacobucci souligne la nécessité d'aborder les questions de diffusion électronique des décisions et d'élaboration de politiques qui assurent

l'accès égal et facile aux décisions, non seulement pour la communauté des juristes, mais pour le public en général.

Grâce à une série d'exemples, M^e Iacobucci indique à quel point la technologie a modifié nos vies et ajoute que l'évolution technologique a "toujours eu des répercussions imprévues sur les traditions".

Depuis la publication il y a quinze ans de l'étude nationale sur les besoins en information des avocats, Opération Compulex, *le rôle de l'ordinateur dans la recherche juridique s'est accru de façon spectaculaire. En effet, les ordinateurs ne sont plus considérés comme un faible supplément des outils manuels, ajoute M^e Iacobucci.*

La diffusion en direct des décisions est intéressante parce qu'elle assure l'accès aux décisions rapidement et équitablement partout au Canada, selon M^e Iacobucci. Mais la prudence est de mise, car il faut tenir compte des besoins du public en matière d'information juridique. Il faut aussi élaborer des normes d'application nationale pour veiller à ce que les réseaux nationaux ne coûtent pas trop cher et à ce que les exigences des deux langues officielles et systèmes juridiques au Canada soient respectées.

* * *

I am particularly pleased to have been invited here today, because as one of the founding organizations of the Canadian Law Information Council, the Department of Justice has always been an active supporter of the Council's work in improving access to legal information.

This Forum is an especially good example of how CLIC functions at its best. We all recognize the importance of ensuring that the distribution of judgments from courts across Canada proceeds in a manner reflecting the best interests of the Canadian public, the legal community and our suppliers of legal information.

This meeting is our opportunity to explore what those interests are, and how best to accommodate them. While the application of computer and communications technology introduces new problems, it also highlights many changes that lie ahead, and seems to offer many opportunities for improvements in existing systems.

L'assemblée à laquelle nous participons aujourd'hui nous offre la chance de mieux cerner ces intérêts et de mettre au point de meilleurs moyens de les servir. L'avènement de l'informatique et des communications pose sans doute certains problèmes, mais

il souligne aussi les changements que nous réserve l'avenir et semble présager une amélioration des systèmes existants.

In some ways we have all become accustomed to instant information. Making flight reservations, we expect our agent to know which airlines are offering service by what route, at what time, and for what price. We can now sign-on to a database and find out ourselves, but in either case we expect to book something in a hurry. At the airport we can check our electronic mailboxes. Registering at a hotel, we expect our reservation to be "online". And accurate.

At the bank, the long line-ups in front of tellers have now been replaced by the long line-ups in front of computer terminals. But we do expect our accounts to be updated on the spot, with printouts confirming the transaction. Recently the *Ottawa Citizen* has been running some stories about what happens when a user-friendly bank customer runs into a user-hostile banking machine. It is ugly.

It seems inevitable, then, that when the lawyer meets computer to do legal research, they both expect instantaneous access and the most up-to-date information possible. Imagine if the automated teller gave you your account balance as of three months ago. I know what that would do to my cash flow situation.

Equitable and easy access to law remains a priority for the Department of Justice and for all the organizations representing CLIC. This Forum has brought together individuals from practically every constituency of CLIC, and that indicates to me that the issues being dealt with here are not the narrow concerns only of technicians, nor are they of interest to only a select group within the legal community.

The most striking thing about electronic distribution of judgments, and the single factor which makes this development so attractive, and indeed so necessary, is the speed with which researchers may gain access to precedent. It is a truism to say that the law is changing very rapidly today. It is even more important for lawyers to keep up with judicial interpretation and lawmaking in the light of the *Charter,* and the increased importance of judicial review.

Fifteen years ago the Department of Justice commissioned a study, *Operation Compulex*, to look at the legal information needs of Canada's legal community. It was designed to survey lawyers, to review current and promised systems of publishing, and to provide a blueprint for approaching the major problems faced by legal researchers at the time.

Only fifteen years ago, this is what the authors had to say about computer-assisted legal research:

> The computer, as of yet, has not made a significant contribution to the legal research process, although a number of systems in the industrialized world are under development.

Today, it is too late to suggest that the computer is a passing fad, or that the computer as a research tool is only a weak supplement to the manual tools with which we are all familiar. The advances made today in the private sector to enhance the speed of law reporting are astonishing, and are a very important first step. The difficulties, the new problems, and the face of the future are what need to be discussed now, at the embryonic stage of this national process of automation.

At the Supreme Court of Canada, the introduction of microcomputers to replace a variety of word-processing and typing equipment has now established a precedent of sorts, and at the same time has created a demand for judgments in electronic form. While market forces guide the activities of the commercial publishers and database suppliers, governments and courts must find the appropriate response, in the context of their available resources, their mandates, their policies and their priorities.

It is important also to ensure that we have national standards to work with. If every court producing judgments uses a different technology, the cost of a national network is increased, and access is made more complicated. The technology must be stretched to adapt to our requirements of bilingualism, not only as between Quebec and the Common Law provinces, but for the growing volume of French language Common Law decisions as well. In addition, we must keep the needs of the public and the press in mind.

While traditional legal research is not generally performed by those who are not trained in law or legal research, the public needs access to legal information today perhaps more than ever before. It is the responsibility of governments and the legal community to ensure that the newest developments in technology do not make public access to judicial decisions more expensive or more difficult than before.

Sometimes we gaze into the crystal ball and forget to look back in history. New ideas and technologies have always had an unanticipated impact on traditions.

More than 150 years ago, the following lines appeared in one of Tennyson's poems:

> Every minute dies a man,
> Every minute one is born.

It happened that a Professor of Mathematics at Cambridge named Charles Babbage took issue with the poet's calculations and wrote a letter to Tennyson suggesting new wording. Since the world's population was actually increasing, Babbage wrote:

> I would therefore take the liberty of suggesting that in the next edition of your excellent poem the erroneous calculation to which I refer should be corrected as follows:
>
> Every moment dies a man
> And one and a sixteenth is born.

The exact ratio, he added, was 1 to 167, but he did not want to tamper too much with a work of art.

There are three facts which make this little anecdote quite interesting, and particularly relevant to the Forum taking place today. First, Charles Babbage, as some of you may know, was the designer of an elaborate calculating machine, a mechanical nineteenth-century precursor of today's electronic computers.

Second, this fabulous machine, the Analytical Engine, was never completely constructed owing to his failure to obtain sufficient financial backing. It should be noted for the record that he did receive government funding, to the tune of 20,000 pounds. I am pleased to say that our own investments in technology are usually more successful.

Finally, and most surprisingly, Tennyson did rewrite the poem, but not exactly in the way Babbage proposed. By changing the word "minute" to the word "moment", Tennyson satisfied his own poetic conscience and the demands of an emerging scientific ethic.

When I consider this story, I wonder whether we risk compromising our great legal traditions by the rapid automation we have witnessed in only a few short years. The leather-bound volumes filling our bookcases offer a kind of comfort which no terminal I have seen can match. More important than the format of our precedents is their content. Will the demands of the computer programmers influence the way opinions are written? Will editors be more inclined to change and revise judgments online just because it is possible? These are just two of an almost endless series of questions that need to be asked.

Twenty years ago when McLuhan said that books were obsolescent, most of us laughed in disbelief. Now, we laugh nervously. Fifteen years from now -- and don't quote me on this prediction -- we may not laugh at all.

Something else McLuhan said seems worth repeating here:

> When faced with a totally new situation, we tend always to attach ourselves to the objects, to the flavor of the most recent past. We look at the present through a rear-view mirror. We march backwards into the future.

It is not clear whether marching backwards into the future is such a bad thing, as long as we do not march over a cliff.

The computer has caught up with us lawyers, but I am afraid that as a profession we have not caught up with the computer. This is a large country, and moving mounds of paper from one end of it to another can be a slow and expensive process. It can also be a process that favours one part of the legal community over another. The promise of powerful new technology is attractive, but we must approach it with caution, with rationality, and with good planning.

Aujourd'hui, c'est l'ordinateur qui ouvre la marche. Mais j'ai bien peur que nous les juristes n'avons pas emboîté le pas. Nous vivons dans un grand pays; il peut être laborieux et coûteux de soulever nos montagnes de papier pour les transporter d'un océan à l'autre. De plus, cette approche risque de favoriser certains groupes de la communauté juridique au détriment des autres. L'avenir que nous réserve les techniques de pointe est sans doute prometteur, mais il serait sage de bien le planifier et d'aborder la question prudemment et intelligemment.

This Forum allows all of us to anticipate changes brought about by technology, to understand them, and ultimately to influence them. I suggest we approach the stresses of technological change with the same kind of ingenuity that the great humanist Tennyson showed.

ELECTRONIC DISTRIBUTION BY COURTS AND TRIBUNALS

* * *

LA DIFFUSION ÉLECTRONIQUE PAR LES TRIBUNAUX JUDICIAIRES ET ADMINISTRATIFS

The Experience of Newfoundland

Deborah E. Fry

* * *

SUMMARY

The experience of the Supreme Court of Newfoundland, as the first Canadian court to transmit its judgments online to QL Systems, is highlighted in this presentation by Deborah Fry, Associate Deputy Minister of Justice, Newfoundland Department of Justice. Ms. Fry discusses how the Supreme Court arrived at its decision to transmit its judgments directly to QL, and explains how the system functions along with its costs. The issue of copyright is discussed by Ms. Fry, who sees both advantages and disadvantages in Crown retention of copyright in judgments.

With the availability of judgments in electronic form, Ms. Fry observes that judges will be required to modify their judgment-writing style to ensure that the correct terminology is employed to facilitate accurate retrieval of information.

Deborah Fry concludes her remarks by arguing for "the concept of one official database supplier of legal information, owned, operated, and controlled in Canada".

RÉSUMÉ

L'expérience de la Cour suprême de Terre-Neuve, en tant que première cour canadienne à transmettre ses décisions en direct à QL Systems, est décrite dans l'exposé de Deborah Fry, sous-ministre associée, ministère de la Justice de Terre-Neuve. M^e^ Fry explique comment la Cour suprême est arrivée à cette décision, comment le système fonctionne et combien il coûte. Elle aborde la question des droits d'auteur et constate les avantages et les inconvénients de la conservation de ces droits par la Couronne.

Avec la disponibilité des décisions sous forme électronique, M^e^ Fry estime que les juges devront modifier leur style de rédaction pour s'assurer qu'ils emploient la bonne terminologie afin de faciliter la recherche documentaire.

M^e Fry conclut en défendant le "concept d'un seul fournisseur officiel de banques de données juridiques, exploitées et contrôlées au Canada et de propriété canadienne".

• • •

Newfoundland has been invited to participate at this national Forum because we have introduced new technology in our courts and are very pleased to be offered an opportunity to share our experience with you. Our courts, together with those in the Atlantic Provinces of Nova Scotia and Prince Edward Island, have been the first in the country to be involved with the electronic distribution of judgments.

How We Got Involved

In May of 1986, we were approached by QL Systems with a request to provide them with copies of our Court of Appeal and Trial Division decisions in order to enable them to create a *Newfoundland Judgments* database. A year earlier, QL had started providing judgments of the Supreme Court of Canada online within 24 hours of their release by the court. At that time, QL was also approaching most or all of the courts across the country with similar requests.

Both the Court of Appeal and Trial Division of the Supreme Court of Newfoundland agreed to provide QL with their judgments as quickly as possible upon release, and in August of 1986, the *Newfoundland Judgments* database was created. It now contains over 600 decisions and is updated on a weekly basis.

Until recently, judgments were forwarded to QL in the form of paper copies sent by mail or courier to the computer centre in Kingston, Ontario. Upon receipt, these decisions were scanned with an optical page reader, proofread once and added to the QL computer. No headnotes or value-added features were made.

In September of 1986, a reorganization of the courts in Newfoundland saw a merger of the Supreme Court, Trial Division, and the district courts, thus eliminating the district courts. To accommodate merger, new computer systems were required for the courts. Several judges had expressed an interest in having access to computer-assisted legal research (CALR) and a departmental decision was made to provide the courts with equipment necessary to have this capability.

In March of 1987, our systems analyst, responsible for court systems, contacted Ruth Rintoul of QL Systems to discuss our plans and request information on the type of equipment required to allow judges to conduct computer-assisted legal research. QL suggested that we transmit our judgments electronically to them. The final result

was an agreement in which QL agreed to contribute the communications software and training, as well as all costs associated with the use of QL's electronic mail system to transmit the judgments to QL. In return, we provided IBM-compatible personal computers, printers and modems. Thus began our entry into the field of electronic distribution of judgments.

How the System Works

Personal computers are now in use at the Supreme Court, Trial Division, in St. John's. These are used for the preparation of judgments using WordPerfect word-processing software and for conducting computer-assisted legal research. All judges' secretaries have their own PCs, but only one PC at the Court has a modem for transmitting judgments electronically to QL. When a judgment is ready for release, the secretary who typed it will transfer the floppy disk containing the judgment to the PC which has the modem attached, and transmits the judgment to QL using a series of commands. I have been advised by the secretaries at the Court that the time required to transmit an average-length judgment is between ten and fifteen minutes, sometimes longer, though, depending on the length of the judgment.

At the present time, only the Supreme Court, Trial Division, in St. John's has the capability to transmit judgments electronically, but we expect the Unified Family Court in St. John's to be on stream shortly. The Court of Appeal has already installed an IBM-PC compatible, printer and modem for conducting computer-assisted legal research, but judgments still continue to be prepared on Xerox equipment which has been in place in the Court for some time. The judgments are forwarded to QL in paper copy. Plans are under way to upgrade or replace this equipment to allow the transmission electronically. We are also looking at new computer systems for the six Supreme Court Judicial Centres outside St. John's, and hope to install systems that would permit the courts to transmit judgments electronically as well as conduct computer-assisted legal research.

Costs of the System

To date, the only expenses incurred by our Department are those associated with the purchase of the PCs, printers and modems. DataPac costs, storage costs and all other expenses have been borne by QL Systems. In September of 1987, a representative of QL met with judges and court staff to provide training in searching QL databases, as well as procedures for transmitting judgments. These costs were borne by QL Systems. In addition, judges are permitted to search many of QL's databases free of charge.

Copyright Issues

Recommendation Number 10 of the recent report of the Parliamentary Subcommittee on Copyright entitled *A Charter of Rights for Creators* recommended that copyright in statutes, regulations and decisions of courts and administrative tribunals be in the public domain. At the present time, there is no restriction on access to decisions from Newfoundland courts. Both the Court of Appeal and the Supreme Court, Trial Division, maintain lengthy mailing lists of judgments for free distribution. This list includes counsel for the parties, law libraries, all Canadian legal publishers, lower courts and others. Anyone not included on the complimentary mailing list can obtain copies of any or all decisions from the Court Reporter's Office at a cost of 30 cents per page.

To date, we have not had any requests from other database vendors for electronic access to our decisions and consequently, have not made a policy decision on this matter.

As the Department of Justice bears responsibility for the administration of justice in the province, any policy decision on allowing access to other database vendors would be made by the Department in consultation with the Registrar of the Supreme Court who bears the responsibility for the effective administration of the courts. Allocation of staff time, costs and quality control of the decisions would certainly be prime considerations in providing electronic access to other vendors.

As previously noted, the current report entitled *A Charter of Rights for Creators* recommends that copyright for judicial decisions be in the public domain. While the Newfoundland Department of Justice has not adopted an official policy to date, we see both advantages and disadvantages of copyright resting in either the Crown or the public domain. An obvious advantage of the Crown copyright is ensuring Canadian control of law reporting, and an effective means of eliminating duplication and ensuring standardization. A disadvantage is the potential for the Crown to impose prohibitively high royalties or tariffs for information that has until now been provided free of charge or at a nominal cost. In addition, the exercise of Crown copyright could unduly restrict the timely and complete flow of information between the courts and the legal publishers. On the other hand, with copyright resting in the public domain, there are no safeguards against a foreign-owned corporation becoming the exclusive database vendor for Canadian law.

Implications of Electronic Access for Judgment Writing

The new technology which involves both the transmission and retrieval electronically of judgments has created certain implications for judgment writers. For example, it

becomes necessary for a judge to use the phrase "Charter of Rights" at least once in a judgment to ensure that searchers will be able to retrieve the information. If only the word "Charter" is used, an effective legal search would be prohibited since the use of the word "Charter" would retrieve an excessive number of judgments which were completely unrelated to the *Charter of Rights and Freedoms*. The same logic applies to the *Criminal Code* and all other statutes. It is imperative that these phrases be referred to at least once in the judgment by their complete title to enable appropriate retrieval.

Conclusion

The Newfoundland Department of Justice supports the concept of one official database supplier of legal information, owned, operated and controlled in Canada. Such a system would include statutes, regulations and case law. Information should be readily accessible at a reasonable and uniform cost to all professionals involved in legal research in the country. We do not feel that the professionals and the general public can afford a proliferation of systems providing different or similar legal information, nor do users wish to learn several different methods of accessing this information.

It is our hope that this Forum will provide direction in the development of a legal information policy for Canada that will take us into the twenty-first century.

A Judicial Perspective

Honourable Mr. Justice K. Peter Richard

• • •

SUMMARY

Justice K. Peter Richard, of the Supreme Court of Nova Scotia, Trial Division, discusses electronic distribution of judgments from his perspective as a creator of decisions using a computer. Justice Richard's involvement in this area originated from his interest in exploring the possible computer applications to judicial functions.

While using the computer to perform word processing and computer-assisted legal research, Justice Richard has also developed databases for his personal decisions and for sentencing.

Of particular interest is Justice Richard's description of the transmission of his decisions directly to QL Systems via modem. At the present time, he notes that decisions are transmitted only to QL Systems, as the sole online retrieval system that has had a presence in Nova Scotia. Justice Richard views the development of competing online systems as unfortunate, in that users are required to sign-on to different systems and familiarize themselves with different sets of system commands.

In Justice Richard's view, electronic distribution is more efficient and cost-effective than the current practice of distributing the hard copy of decisions to a large mailing list. At the same time, Justice Richard acknowledges that electronic distribution raises concerns, such as increased costs to users, that must be considered.

RÉSUMÉ

M. le juge K. Peter Richard, de la Cour suprême de la Nouvelle-Écosse, division de première instance, discute de la diffusion électronique des décisions de son point de vue personnel, en tant que créateur d'un système informatique. En effet, il s'est intéressé dès le début à l'application de l'informatique aux fonctions judiciaires.

Il a utilisé l'ordinateur pour le traitement des textes et la recherche juridique assistée par ordinateur et a également constitué des banques

de données à l'égard des décisions qu'il a rendues personnellement et de la détermination des sentences.

La description que fait le juge Richard de la transmission en direct de ses propres décisions à QL Systems par modem est particulièrement intéressante. Actuellement, ses décisions sont transmises exclusivement à QL Systems, en tant que seul système de recherche documentaire en direct utilisé en Nouvelle-Écosse. Le juge Richard estime qu'il est regrettable de constater l'évolution de systèmes concurrentiels qui contraignent les utilisateurs à s'adapter à différents systèmes et à se familiariser avec différentes commandes.

Selon le juge Richard, la diffusion électronique est plus efficace et plus rentable que la pratique actuelle de diffusion des décisions en clair à une longue liste d'abonnés. Le juge Richard reconnaît par la même occasion que la diffusion électronique soulève quelques inquiétudes auxquelles il faut s'arrêter, comme l'accroissement des coûts pour l'utilisateur.

• • •

When I was first informed of the topic for this panel discussion, I wondered how I could possibly comply with Martin's directive that I speak for fifteen to twenty minutes. He assured me that grave consequences await anyone who failed in this regard.

At first blush, the problem seems to reduce itself to questions of logistics and equipment capability. In other words, if you have a reasonably competent secretary sitting in front of a computer equipped with a good word-processing software package and a modem with appropriate communications software then, bingo, your problems are solved. After some contemplation, however, I realize that this is an extremely simplistic view of the question. Indeed, if the problem was that simple it would hardly warrant the convoking of a learned group such as I see before me here this afternoon. In the following minutes, I hope to share with you some of the experiences which I have had over the past few years, as well as some of the information which I have gleaned from various and sundry sources.

Why would a Superior Court Judge, concerned primarily with hearing evidence, instructing juries and writing decisions become interested in computers, you might ask. A number of years ago, I presided over a chambers application involving mini-computers and specialized software applications. I may as well have been listening to Chinese or Farsi for all I understood. I am not comfortable feeling "dumb", so I decided to learn a little about the ubiquitous computer. I went from a Radio Shack

Coco to an Apple IIE and during the course of these little adventures, I began to realize the computer may have some application to the judiciary.

About two years ago, I became involved in a project which the consultants somewhat grandly labelled "Automated Judicial Support System". The aim of the project is to assess the viability of computer use by judges in the discharge of their duties. The project was jointly funded by the Canadian Centre for Justice Statistics (CCJS) and the Department of the Attorney General of the Province of Nova Scotia. I serve in the capacity of pilot user. The CCJS engaged consultants and also took responsibility for software development. The Nova Scotia Department of the Attorney-General purchased the hardware, two IBM or compatible PCs with appropriate peripherals including printers. One of the PCs is a portable COMPAQ which I use and carry with me on circuit.

I use the system for correspondence and judgment writing which are basic word-processing functions. Both my secretary and I use the modem capability to search in QUICKLAW. Not meaning to show favouritism, we are presently arranging for access to CAN/LAW, but as you know, the wheels of the bureaucracy turn slowly when it comes to spending money. I also have two databases on the hard disk of both machines, one which includes summaries of my own personal decisions and the other being an experimental sentencing database. Both databases are being maintained using INMAGIC software which permits random key-word searching within a designated field.

Probably the most useful application has been with regard to the preparation of jury charges, both criminal and civil. This also is a word-processing operation involving the storage of standard portions of jury charges on a directory on the hard disk and then incorporating these portions with comments or directions unique to a specific case.

I must say, and with appropriate modesty, that the project has been quite successful and has generated considerable interest in computer use by judges. The Canadian Judicial Council has just recently established a committee to assist individual judges who are interested in personal use of computers. It is hoped that this committee will be able to assist judges across Canada, who are interested in computers, to receive the benefit of the experience of others. It may also help to establish a sort of "user's group" among judges for the interchange of ideas and techniques.

Now, to get to the matter at hand, that is, the electronic distribution of judgments. In the late winter of this year, QL Systems agreed to install a high-speed phone line (I believe 9600 BAUD) in order to permit my secretary to do high-speed searches. The "quid pro quo" for this was that my secretary would format and transmit certain data from the Halifax courts to QL. In addition, she transmits my judgments online to QL Systems through the QL/Mail service.

For those of you who may be interested in the technical aspects of this, the following comments may be of assistance. We work with WordPerfect as a software package. The decision is sent to QL via QL/Mail. In order to prepare the decision for online transmission it must be stripped of the WordPerfect formatting and this is done by saving the document in RAM as a DOS text file. I believe that the effect of this is to convert the document into ASCII format. Then you simply connect to QL/Mail and send it through. The process is relatively quick when you have the advantage of a high-speed line. One of my decisions, *Nova Scotia Savings and Loan v. Exco Corp.*, took about one hour for the actual transmission. However, it was a very lengthy decision of some 200 pages. I am informed by QL that this method of transmission is clean and trouble-free and requires relatively little cosmetic work before loading into the database. It is superior, both in speed and accuracy to the optical reader, and is also less troublesome than some other online systems.

Unfortunately, at the present time I am the only Judge in our Court to have this online capability. This is due only to the fact that I am involved in the project to which I have already referred. Other secretaries are using Xerox Memorywriters which are stand-alone word processors without transmission capabilities. However, I recently became aware of a software package which is marketed by Xerox which may allow the transmission online of material produced on a Xerox disk. Apparently, the software can be loaded into the random access memory of an IBM or IBM-compatible computer. With the aid of the software, the IBM can read the disk contents in ASCII and then transmit in that format through the modem in the same manner as the unformatted WordPerfect output. If this package lives up to its billing then all Nova Scotia judgments could be sent out electronically, thus eliminating much duplication and time loss. However, most of the information which I have on this came to me through a sales technician and I will want to see it in actual operation before I am convinced that it will fill the bill.

I was informed by Chief Justice Norman Carruthers of the Supreme Court of Prince Edward Island that they have been transmitting their decisions online to QUICKLAW for about one year. They use Wang dedicated word processors with which they can also do any computer searching. I understand that the Wang system does not perform as well online as does IBM. Apparently, text generated on the Wang requires a considerably greater amount of cleaning up and formatting before it is acceptable for inclusion in the database.

The Trial Division of the Supreme Court of Newfoundland very recently converted their secretarial services to IBM and IBM-compatible computers using WordPerfect software. Modems have been included in the installation and now that division has the capability of transmitting all judgments online to QL Systems in Kingston. In order to complete the installation, I am informed that QL agreed to supply the communications software (presumably the QUICKLINK package) and the training of the

personnel. In addition, QL pays all related transmission costs. The net result is that the costs of transmitting and processing judgments for inclusion on the QL databases has been cut dramatically and the judgments get on the databases much more quickly.

Perhaps a word would be appropriate as to why the references throughout this paper have been to QL Systems to the virtual exclusion of other electronic databases. Simply put, QL is the only company which has had any presence in our area at this time. Up until last spring, this was a non-issue since all the law databases were maintained by QL. The situation has now been altered drastically, and in my view, not favourably by the move of Canada Law Book to set up its own database in competition with QL. So far, the only communication which we have had from CAN/LAW was a brief letter to Chief Justice Clarke respecting our "policy" on the transmission of judgments online in machine-readable format. In speaking with Chief Justice Carruthers of Prince Edward Island, he indicated that they have had no contact with anyone in this regard other than QL. The person who wrote to our Chief Justice was referred to me and I have as yet heard nothing further.

I think that it is most unfortunate that the electronic legal research capability in Canada is now split into two separate and competing databases. The previous system was so convenient in that one needed only to "dial-up" once to get into the complete service. Also, a person had to master only one set of search protocols. Although I have not used it personally, I am informed that the CAN/LAW protocols are considerably more complex and convoluted than are the QL. If this is in fact the case, then searching will become more complicated and costly, and it may very well lead to lower utilization of the more complicated database. This would be a most unfortunate result since CAN/LAW does contain very significant law report series. Perhaps it is not too late in the day to wistfully hope that a marriage of convenience may take place and everyone will "search happily ever after".

I suppose that brings me to the next point, that is, to whom should the decisions be made available and under what circumstances. Before discussing this topic, I must make the following caveat. The views expressed are my own. They are not necessarily those of CLIC or the Nova Scotia Supreme Court, and they are not necessarily correct!

Let us first decide the question as to whom we owe a duty to provide copies of decisions. In the strictest sense, such a duty is owed to the litigants who have come to the court to have their dispute resolved. To that end and as a matter of course, a court certified copy of the decision is mailed first to each of the parties. A practice has arisen over the years in Nova Scotia to send hard copies of decisions to a myriad of persons and institutions including other Attorneys General (whom I know await these with great anticipation), to publishers, law schools, legal and pseudo-legal institutions, court clerks and other judges. Our mailing list now stands at 150 for

criminal cases and 101 for civil cases. Therefore, a seemingly innocuous decision of ten pages which established no new legal principles and is decided on its own facts will immediately generate between 1,000 and 1,500 pages of printing plus large brown envelopes to which will be attached a 45-cent stamp. My rough calculation brings this to about $400 for each decision. I am informed by our Printing Room Manager that in 1986, some 452 Nova Scotia decisions were printed and that the decisions averaged 12.2 pages. Taking an average of 130 copies for each decision, this amounts to over 700,000 pages and something in excess of $23,000, in postage charges alone. Add to this the printing costs in excess of $100,000, as well as labour and equipment costs, and we are getting very close to a quarter of a million dollar operation. And Nova Scotia is a relatively small province and generates far less paper than do provinces such as Quebec, Ontario, Alberta and British Columbia. If we extrapolate the Nova Scotia experience onto the national scene, we can safely conclude that present methods of judgment distribution are costly and to some extent wasteful.

I say wasteful because, in my view, a large percentage of the decisions mailed out in such an indiscriminate manner will very quickly end up in the trash can or in a damp and dingy basement. Most of the significant decisions will be included in the various law reports which further makes the printed copy redundant.

From the point of view of the originating court, it would appear that electronic distribution is far more efficient and cost-effective. It would then be necessary only to make a minimal number of hard copies for distribution to the parties and the court files. The decision would then be sent online electronically to the various databases. Persons wishing to avail themselves of the decision would then access the database in the normal manner.

Again, I am probably guilty of over-simplification, and some of the more knowledgeable among you will have very real concerns with this. I know there are problems with the concept of electronic distribution to the exclusion of other methods. The costs to the end-user of the material may be greater. Some of the end-users may not have the wherewithal to chase down these judgments electronically. There may be legal problems respecting this method of mass distribution. Indeed, Ontario has a rather anomalous situation respecting the distribution of decisions in that province. Apparently, the Law Society of Upper Canada has some sort of a statutory proprietary interest in the judgments of the superior courts in that province. Ignoring any constitutional considerations for the moment, this circumstance does pose some problems respecting electronic distribution. For instance, some time ago QL Systems negotiated with a number of provinces to set up databases of each provinces' decisions such as NSJ or NBJ for Nova Scotia and New Brunswick Judgments. In return, QL gave the judges free access to these databases. However, the Law Society of Upper Canada would not allow free access to judges on this basis. As a "quid pro quo" the Ontario judges were denied free access to the judgments of other courts. I

understand that the Law Society has since relented and an arrangement has been reached which now standardizes the access by judges in participating provinces. However, this exercise of control by the Law Society of Upper Canada continues to create problems in other areas of judgment dissemination.

Before concluding this presentation, I would like to thank CLIC for having the foresight and the interest in organizing this very useful conference. I think it is important that judges, lawyers and others involved in the administration of justice keep abreast of new technology. In a country as large and diverse as Canada, I think it is essential that we do whatever is necessary to avoid the balkanization of the legal system. Certainly, any move to get judicial decisions, including those relating to sentencing, distributed both widely and quickly across the country is a step in that direction. I feel that those assembled here are on the leading edge of this.

The Canadian Bar Association: CBANET

Stephen Hanson

• • •

SUMMARY

As one of the prime movers behind the creation of CBANET, Steven Hanson, Senior Director of Communications for the Canadian Bar Association (CBA), outlines the reasons motivating the CBA's involvement in providing an electronic information system for the benefit of its members. Not only did the CBA want to implement electronic communications between CBA members, its branches and national office, it also wished to provide access to third-party databases and to develop a database of information about the CBA itself.

One of the features of CBANET, the electronic mail service, could play a potential role in the distribution of judgments, observes Mr. Hanson, as summaries of judgments could be distributed to a list of interested individuals. The notice board feature of CBANET could also list judgments as they are delivered, while lawyers could access the full text of judgments in commercial databases, through CBANET.

As Mr. Hanson notes it is necessary that lawyers be provided with information on technological developments to understand their benefits and be encouraged to use online systems. Mr. Hanson also suggests that the obstacle of learning differing sets of system commands must be overcome to encourage greater use of online systems. Mr. Hanson suggests a number of solutions that might assist in this process.

RÉSUMÉ

À titre de l'un des principaux intervenants dans la création de LEXIBAR, Steven Hanson, directeur principal des communications à l'Association du Barreau canadien (ABC), énumère les raisons qui ont amené l'ABC à s'intéresser à un système électronique d'information pour le bénéfice de ses membres. Non seulement l'Association veut-elle établir des communications électroniques entre ses membres et entre ses succursales et son bureau national, mais elle désire également donner à ses membres l'accès à des banques de données de tiers et élaborer sa propre banque de données.

LEXIBAR, un service de courrier électronique, pourrait éventuellement servir à la diffusion de décisions, observe M. Hanson, car des résumés de décisions pourraient être distribués à une liste de particuliers intéressés. Les avis publiés par LEXIBAR pourraient également énumérer les décisions à mesure qu'elles sont rendues et permettre aux avocats d'avoir accès au texte intégral des décisions dans les banques de données commerciales.

M. Hanson ajoute qu'il est nécessaire que les avocats soient renseignés sur l'évolution technologique pour en comprendre les avantages et encouragés à utiliser les systèmes en direct. Il laisse également entendre qu'il faut surmonter l'obstacle que constitue l'apprentissage de différents systèmes afin d'encourager les gens à les utiliser davantage. Il propose un certain nombre de solutions susceptibles d'être utiles.

* * *

The Canadian Bar Association (CBA) really opened the door to electronic information systems in its own operations about six years ago. That is when the CBA installed two terminals in its Ottawa office that were connected to the computers at the *Ottawa Citizen*, the daily newspaper ten miles west of this Forum. By keying-in information in our downtown offices, we were able to produce the type of our monthly newspaper at the *Citizen* in a matter of hours instead of weeks.

I do not have to tell you that the technology improved our productivity by about 50 percent. Not only that, but the computer-based communications meant last minute CBA information submitted by 2:00 p.m. could be printed in our 33,000 papers that were ready by 4:00 p.m.

The advent of the microcomputer, with modems, communications programs and local area networks at low prices means that electronic technology is now within the reach of not only each law firm but each lawyer. And by connecting that computer to the telephone, the electronic world is now at our fingertips. With the technology available comes the expectations of efficient distribution systems.

I would like to explain how the Bar has reacted to this technological change and report on some of the feedback from our members on the electronic information and distribution systems.

A Little History

Sixteen months ago, the Canadian Bar Association set up CBANET (*LEXIBAR*) as the Association's electronic network as a member service. The mandate was:

- to immediately implement electronic communications between its national offices, the branches of the CBA and its members;

- to identify and provide, as a second phase, access to a series of third-party electronic databases of particular interest to the legal profession; and

- to develop, as part of CBANET, a database known as CANBAR with information about the Association itself.

The driving force in the development of the network is member service. The Bar wanted a service that would serve the lawyer in the small firm outside the industrialized centres at the same cost as those in the cities. As a result, any subscriber can access the network from anywhere in Canada by a toll-free telephone call.

There are many features of the network, from data conferencing to information retrieval, in both English and French versions. But let me touch on four relevant features in particular.

1. Electronic Mail

Electronic mail is one. In Monday's *The Globe and Mail*, Oliver Bertin said, "In its basic form, E-Mail is simply a very fast letterbox". A lawyer in Vancouver wants to check the date of the Section meeting on Wills and Trusts, so he writes a memo to the Chairman in Toronto and pushes a button on his computer keyboard. When the Chairman checks his electronic mailbox, he writes a reply with the information and sends it back just as quickly.

The system is particularly good when one memo has to go to several people. Just list the names and the same information goes to many automatically. The service is rapid and it is cost-effective. The sender pays for the time he is on the network. For a message to someone not on the system, there is an interface with the post office or courier so the message can be delivered usually on the same day it is sent. Messages can be filed on the network, edited, revised and forwarded to others.

2. *Notice Board*

The second network feature I want to mention is the notice boards. Controlled by the CBA, these notice boards can be used to store information for any subscriber to select and read. A calendar of events is the type of information for a network notice board. It is prepared offline and stored in memory. The notice board sponsor logs on to the network, opens a notice board and uploads the calendar. The process can be accomplished very quickly. The information is automatically sorted into pages.

There are two cost components to the notice board service: the time the operator is on the network (25 cents a minute), and storage time for the notice board, at a rate of approximately 30 cents a month for a page. Any CBANET subscriber can view the notice board, copy it, or download it. The subscriber cannot change the information on the network. The cost is 25 cents a minute.

The CBA is using the boards to post dates, our legislation and law reform calendar, information on our major activities, and as a directory. One notice board carries the weekly Supreme Court docket and summary of judgments. I will discuss this in greater depth later.

3. *Database Access*

The network also provides database access. The communication charge is ten cents for each minute of connect time. The user also pays the database charges. Today you can retrieve information from some 1,500 commercial databases, ranging from airline flights to news stories. When our contracts are in place, and we are just about there, all Canadian legal databases will be available through the network at competitive rates. If a court judgment is available on a database that is on CBANET, you will be able to retrieve it easily. The strength of the network lies in the collection of databases, the lack of sign-up fees, and the ease with which the subscriber can move from one database to another.

4. *Direct Connection*

The fourth feature is now being developed in response to a group of our subscribers. A firm is interested in offering, to a group of lawyers across Canada, access to their data which is stored on a small but powerful computer in their main office. The firm already has a small database that is maintained by staff experts on computers and programming. By installing a dedicated telephone line, the appropriate software and interface, the designated lawyers can access the data on this computer through CBANET, one at a time. The cost of access from any location is ten cents a

minute prime time. This charge covers the communication charges from anywhere in Canada.

If the demand is high, the firm will consider installing more telephone lines and hardware to handle several incoming calls. This is a specialized application that is being developed under the watchful eye of our Committee.

The CBA has developed the network to serve the legal profession. Its features are particularly appealing to small- and medium-sized law firms as it provides a convenient bundle of electronic legal services. One-stop shopping is the way it is being described. It works for the profession because:

- It is offered in a secure environment that protects confidentiality;
- It has geographic reach across Canada, the U.S. and abroad, via a toll-free telephone call from anywhere in Canada;
- The system is adaptable to the legal system's changing needs;
- There is administrative control built in, in that each individual session can be billed to an individual client account;
- The cost is low without sign-up fees, and it is the same across the country; and
- The users only pay for what is used.

CBANET and the Distribution of Judgments

This very quick overview of CBANET and its direction is background for the question of the role the CBANET has in the distribution of judgments.

The CBA thrust to date has been strictly in network structure. Database development is a specialized field that requires specialized talents and resources. The gathering of judgments from the courts, their input in machine-readable format, editing, storage and the operation of retrieval systems, are functions best relegated to the experts.

The role of the network is that of a conduit between the subscribers and the suppliers of this electronic legal information. The concept of having access to all

legal data available on one network is fundamental to the development of CBANET as a service to the profession.

Earlier, I explained four features of CBANET and I would like to revisit them as part of the examination of the electronic distribution of judgments. If each court was to subscribe to CBANET (membership in the Bar is a prerequisite), the courts could use the features of the network in several ways:

Electronic Mail

Electronic mail offers a means of distributing summaries of judgments to pre-set distribution lists. The cost of sending judgments would depend on the time online. Ideally, to be cost-effective for the sender, the summaries would have to be available in machine-readable format.

Those awaiting details of a specific judgment could order from the supplier. The judgments themselves could be forwarded in their entirety by electronic mail. The individual recipient would either print out the judgment or save it on diskette.

Notice Boards

The notice board feature on CBANET is now being used as an information service for subscribers. It could be used to list judgments as they are issued.

CBANET now offers a Supreme Court notice board. Both the docket listing the appeals to be heard and the summary of judgments are posted weekly, as released by the Court.

At the present time, the information is received from the Court as hard copy. The typewritten pages are scanned optically and transferred onto diskette. The material is proofed and then posted on the network notice boards. Any CBANET user can peruse the notice boards or copy the information for future reference. It should be noted that the information is simply posted weekly and is not archived. There are no keyword search capabilities in these notice boards.

From an operational point of view, the service would be more efficient if the information were supplied directly by the Court in machine-readable format.

The service could be enhanced by the addition of an online order form for copies of specific judgments. The form could be constructed so that, when filled in, it would

be automatically mailed back electronically to the Court. The Court could then either forward specific judgments electronically or by regular mail.

This docket service could be mounted on CBANET by any court. Ideally, it would be operated by a court staff member. The notice board costs of operating the Supreme Court docket during the course of a year run to approximately $400.

Database Access

CBANET can and does provide convenient access to commercial databases. If the judgments are available online, subscribers can automatically connect and retrieve the judgments, using sophisticated computer search programs, paying commercial database rates. The CBA rate structure is such that it should be no more expensive to obtain information through the network from these databases than it is to access the databases directly.

Special Applications

If the courts or any other organization (such as CLIC) maintain judgments on their own computer, CBANET could provide a gateway. The substantial cost of gathering these judgments, editing them, the investment in computer hardware, operation and maintenance, programming, input and updating, just to mention a few elements, would be the responsibility of the sponsoring organization. Without outside funding, this would undoubtedly require user fees. Billing services are available at additional cost through CBANET for suppliers.

In summary then, CBANET can provide direct access to the courts offering electronic mail service, the notice board capability, or database access. The network features are offered on a user-pay basis. The storage and search facilities for court judgments are best handled by information providers in this specialized business.

We have looked at this issue of access from the systems point of view. I would like to take a moment to approach it from that of the practitioner. The first observation is that the legal profession is intrigued but still, to a large degree, reticent to use computers. I like to think of it as the "Real men don't type" syndrome. Of course, you know the answer; it's all in the wording. Typing is out, keyboarding is in. For the generation now in schools, with computer science part of the curriculum, the problem is being solved. But the generation now in practice still has to be eased gently into the new technology. I think that information about the technological advances and demonstrations of electronic services is the way to solve this complaint.

The second hurdle is learning to use the different electronic search systems. Our members complain of the need to learn different searching commands. One of the solutions that we are examining lies in the development of software, which will prompt the practitioner offline for the information required, and then will automatically retrieve the information from various databases. Another solution is called "mediation" in the computer world. Basically, a standard search program in the heart of a network interprets the various search commands giving the appearance of one similar search procedure. The mediation program masks the differences in the search procedures.

There is an awareness in the legal community at the present time that the technology is available to provide legal information more quickly and efficiently than ever before. In one case, a law firm preparing for a leave to appeal scanned the recent Supreme Court decisions on QL. Fortunately, the researcher discovered a recent minority dissent in a family law matter. It discussed in detail the very grounds on which the law firm was basing its case on fiduciary relationships. That discovery bolstered its chances that the leave would be granted.

That incident demonstrates the value of instant access to the court judgments. The traditional printed reports of judgments were still more than a month away.

Finally, our members continue to complain of the overlapping and duplication of legal reporting services. The Canadian situation is far worse than that of the United States, England or New Zealand, it is said. Instead of adding new ingredients, it is recommended that we look at means of streamlining the information to make the practice of law easier.

What our lawyers want is easier, faster and more economical means of researching the legal information that is now available. We have looked at the role of CBANET as a network joining together the many diverse electronic services now available for the practitioner. Several of the components of the network may be useful as we take the first step in developing a legal information policy for Canada.

The CBA is interested in the development of efficient means for access to information. We feel that it is important that members of the practicing profession, as well as the judiciary, have access to the same information. Our Association's objective commits us to improvement in the administration of justice. Our CBANET initiative, with your input, can help provide a quality electronic legal distribution service for the profession.

Developing a Legal Information Policy for Canada: The Role of the Canadian Law Information Council

Martin Felsky

• • •

SUMMARY

Martin Felsky, Director of Research and Information Technology, Canadian Law Information Council, raises a number of important issues relating to the electronic distribution of judgments. Placing its development in a broad context, he argues that effective policies must be implemented to ensure that public access to judgments, and more generally, to legal information, is maintained.

In developing policies, two trends, the market-driven economy and technological determinism, must be examined. Dr. Felsky argues that the legal information industry should not develop solely on free market principles. At the same time, policies must reflect the changing way information is produced and delivered as we move away from paper copy to alternate forms of document delivery. The role of the publisher and the library, as intermediaries, will also be affected by new modes of information delivery. Legal information policy must contemplate these changes as they affect public access.

While the two trends of market-driven economy and technological determinism require reasoned policy responses, another trend of significant importance must be addressed. This trend, notes Dr. Felsky, turns on the globalization of information, and the ease of information transmission across border lines.

The Canadian Law Information Council, over the years, has developed a number of policies with respect to access to legal information. According to Dr. Felsky, it must continue its policy development to ensure that public access to legal information is maintained.

RÉSUMÉ

Directeur de la recherche et de l'informatique au Conseil canadien de la documentation juridique, M^e^ Martin Felsky soulève un certain nombre de questions importantes concernant la diffusion électronique des décisions qu'il aborde dans un contexte général pour soutenir qu'il faut

mettre en place des politiques efficaces pour assurer l'accès public aux décisions et, de façon plus générale, à l'information juridique.

L'élaboration de ces politiques doit tenir compte de deux tendances, l'économie du marché et le déterminisme technologique. M^e Felsky soutient que l'industrie de l'information juridique ne doit pas évoluer uniquement d'après les principes du marché libre. Les politiques doivent refléter les façons changeantes dont l'information est produite et diffusée à mesure que nous nous éloignons de la diffusion de textes en clair pour adopter d'autres formes de diffusion. Le rôle de l'éditeur et de la bibliothèque, en tant qu'intermédiaires, en sera également modifié. Une politique d'information juridique doit envisager l'évolution en tenant compte de ses répercussions sur l'accès public.

Bien que ces deux tendances, l'économie du marché et le déterminisme technologique, exigent des politiques bien réfléchies, une autre tendance d'importance significative doit retenir notre attention. Selon M^e Felsky, c'est la globalisation de l'information et la facilité de transmission de l'information au-delà des frontières.

Le Conseil canadien de la documentation juridique a élaboré au cours des ans un certain nombre de politiques concernant l'accès à l'information juridique. Selon M^e Felsky, le Conseil doit poursuivre ce travail pour assurer l'accès public à cette information.

* * *

I would like to talk about two major issues briefly: first, the possible roles of the Canadian Law Information Council, and second, the theme of policies versus trending. Within the concept of trending, I would like to discuss two trending directions we appear to be moving towards: first, technological determinism, and second, the market-driven economy.

You will find that I, like everyone else, have more questions than answers. I promised Stuart Morrison that I would not talk about nationalization of Canada Law Book, but I will try to talk about the rationalization of Canada Law Book. In return, I am going to ask the publishers not to talk about the privatization of the Supreme Court.

The first role of CLIC that I would like to discuss is policy formation and, as we have heard today, there is a real need for its development. The Department of Justice in Newfoundland, for example, does not have a guiding policy to deal with the issues raised by electronic distribution of judgments. That is fine, but what is the

next step? There has to be a policy developed and implemented. The Law Society of Upper Canada is trying to develop possible ways of regulating law reporting in Ontario. What is their policy? I do not know if there is any, other than a very broad sense of "let's improve access to legal information". That we all agree on, but we need specific policies to guide us in our separate interests, and as we go on our separate ways, to ensure that some of the major needs of the public are met.

The most difficult issues facing us are not resolvable without reference to a policy, and, because legal information is a national concern and a public good, and so essential to the administration of justice, I think it goes without saying that we must devise a useful and flexible information policy for the future. CLIC is an ideal forum, other speakers have said this, and I didn't ask them to say this, to develop a national policy. This Forum, I hope, is the first step on the road to doing precisely that.

I will talk in greater detail about existing CLIC policy and some of the ways in which I think it needs to be reexamined.

The second possible role for CLIC is as an information broker. This is a controversial role, which has been proposed in the past when we were looking at the possibility of transmitting information from the courts, to the publishers and to users. We believed at that time that we needed some carrier, some medium or some intermediary to take information from the courts to the publishers and the public. CLIC has never done that. What has happened in the ensuing years, though, is that QL Systems has in fact gone ahead and done it in any case, and I have not heard many complaints about QL having taken this initiative. QL, I think, is to be congratulated for it. It does not mean, however, that it is too late to develop a policy as to how we feel about it and how it could be developed in the future.

Since inadequate resources, and we have heard this from a number of speakers, have been allocated to courts, administrative tribunals and other agencies, their capabilities of distributing information are relatively poor. Dissemination of information to the public is not always a priority of an agency or a court. If the demand for information from a court is very high, it becomes financially viable to gather and disseminate this information on a user-pay basis, whether it be on a commercial or on a non-profit basis. In any event, it is still a user-pay basis.

By contrast, if the demand is insufficient or if the costs of law report collections are too high, we either need bigger budgets for the courts, or an information broker which is publicly funded or partially publicly funded and partially funded by user groups. One of the first things that CLIC did when it was set up fifteen years ago was to act as a clearing house for Supreme Court of Canada decisions and as a distribution centre for the Supreme Court. In the last couple of years, the demand for that service has dropped off because of QL's initiative.

The second topic I would like to address concerns policies versus trendings. Trendings is an awkward word, but I cannot think of a better one at the moment. CLIC does have a policy on legal information retrieval systems, but not on court information dissemination systems as such, although we have done a major study on courts, which examined the handling of records within the courts. There are seven elements to the CLIC policy which is now in existence, and I will discuss only a few of them today.

The simplest policy is to endorse what is already happening both in terms of technological determinism and in terms of a market-driven economy. Policies which do not endorse what is happening need teeth or else they are ineffectual. My one-year-old son is in the process of teething right now and he has a t-shirt that says "teething is the pits". I think that CLIC has been going through a teething process for over fifteen years, and I hope my son gets over his a little faster than that.

The two types of trends that I would like to look at in some detail are: first, the market-driven economy, and second, technological determinism. The market-driven economy is a fairly clear concept in that those with more buying power have better services and better access to information. It is viable to provide the most demanded information, the information that has the most value to the customers that can afford to pay for it. This has some very positive aspects to it in that it encourages risk-taking, product development and competition, all of which have very beneficial aspects to them. These factors lead to improved quality and pricing.

I think that if QL did not think that there was a profit in what it was doing, at some point in the future, it would not be doing it. I would be happy to discuss this matter with Mr. Lawford. Tax information, for example, is very popular at the present time on online systems and there are a number of competing systems offering tax information. Why? Because there is a tremendous market among lawyers, accountants and businesses for tax information. By the same token, I do not see too much in the way of criminal cases on databases, although in terms of the administration of justice, criminal law seems to me to be more important than tax law.

We need policies with teeth to ensure that our legal information industry does not become exclusively market-driven. Despite all of its benefits, a market-driven economy has some very major disadvantages for society and for the administration of justice. I think we must look more towards cooperative projects between government, industry and non-governmental organizations to counteract the disadvantages.

One of the elements of the current CLIC policy reads, as follows:

> Information should be readily accessible at a reasonable and uniform cost to all professionals involved in legal research in all parts of the country. The principal costs of operating the network should be borne by users.

This is quite appropriate when the information system under discussion is an add-on to a fully mature and complete system of legal information. As such, it is a luxury and it is something that law firms who have money can afford to buy and consequently, it should be run on a user-pay basis.

When an information system, though, becomes the only means of accessing certain information, or when it begins to replace, as our systems are now doing, the available information in paper form, then it is not necessarily appropriate that the user should pay. In fact, it may be more appropriate to share some of the costs among non-users or taxpayers.

The other trending, apart from a market-driven economy, is technological determinism. This term relates to the conversion of all information in textual form into digital form which has, in turn, launched a number of other trends. I would like to talk about two of these trends.

The first trend centers on what I shall refer to as ephemeralization. What the term really means is the switch from a document to an information mode. We are not dealing anymore with documents as such. Instead, we are now dealing with the contents of documents in a different form, and it is this factor that is causing problems. The panel on quality control was really talking about the problems of moving from a document-based system to a non-document-based system. So the trend is really the moving away from documentation on paper to other media. Yet, if you look ahead a little bit further, we may go back, not necessarily to paper, but to a document mode because we need a document mode of transmitting information. We need the authenticity of a judgment, the signature that was discussed, the stamp, the registry and the permanence. Judgments are not only news items. Judgments are also records of proceedings and precedents for future cases, and as a result, they have to be certified and authentic.

One analogy I can think of is digital watches. When the digital watch was first introduced with the digital display, a lot of people were saying, "well, this is going to replace the clock and the analog watch as we know it". But that has not truly happened because people like the idea of seeing how much time they have left. As a result, we are now using digital technology in our watches even though the interface is still analog. Furthermore, there are even analog watches which use liquid crystal

display rather than mechanical hands. In the final analysis, we still prefer a certain type of interface.

Similarly, I think lawyers and users of legal information want documents, but the documents of the future will not necessarily be on paper. Even though they will look like documents, they will simply be facsimiles. New technologies will also be employed to transmit them. It is necessary to be prepared for the transitional phase just being introduced that will last for quite a few years.

The other trend is globalization of information. There are many other trends brought on by the technology, but one of them that is of prime importance to CLIC is globalization. International networking has made the transfer of information from one country to another exceptionally easy. Our policy must either follow the trend line and confirm these trends or portions of it, or critically analyze these trends to see if they will benefit the public and the legal community. If they are not going to do so, then I think we have to install some kind of policy that will actually change the course of technological determinism in the market-driven economy.

CLIC policy number one out of seven is that the: "Canadian network must be controlled, selected, located and operated in Canada". That is a policy which operates against the trend to globalization of information. It is a policy that we have to examine afresh, constantly reflect upon and determine whether or not it is still feasible. We must also put our minds to the question of whether or not it is still worthwhile and if it is, take action. If it is not, then we must drop it.

Today, we have focussed on the direct distribution of judgments, but we have not focussed on how direct distribution from the courts can possibly lead, and I think Steve Hanson referred to it directly, to bypassing publishers entirely. We have been warned, though, of the dangers that would result, in terms of quality control and of added value, so I doubt that this will happen. Yet simply getting copies, or so-called copies of judgments from the courts happens. In fact, it can happen directly. It is possible to receive diskettes instead of paper, so certainly we can eliminate the publisher in some aspects of document delivery. But what is of greater concern is the elimination of the other intermediary, the library, in this game. The trend towards automated delivery systems and in particular, the user-pay concept of document delivery by computer, is endangering the library as a point of free access to the public. We must build, in my opinion, a policy that recognizes the importance of public access and ensure that some action is taken in respect to it.

ATTENDANCE LIST

* * *

LISTE DES PARTICIPANTS

ATTENDANCE LIST/*LISTE DES PARTICIPANTS*

Mark Abrams
Mead Data Central
P.O. Box 933
Dayton, Ohio 45401
U.S.A.

S. Pal Ajiwa
Computer User's Legal Reporter
Computer Law Corporation
191 Post Road West
Westport, CT 06880
U.S.A.

Del Atwood
Nova Scotia Legal Aid
5212 Sackville Street
Halifax, Nova Scotia
B3J 1K6

Professor Jennifer Bankier
Faculty of Law
Dalhousie University
Halifax, Nova Scotia
B3H 4H9

Eleanor Barnes
Ontario Legislative Library
3rd Floor, North Wing
Legislative Building, Queen's Park
Toronto, Ontario
M7A 1A2

David G. Barry
(Moderator/animateur)
Barry & O'Neil
P.O. Box 6010, Station "A"
85 Charlotte Street
Saint John, New Brunswick
E2L 4R5

Peter Bell
Law Society of Upper Canada
Osgoode Hall
Toronto, Ontario
M5H 2M6

John Benesh
(Staff/personnel)
Executive Director
CLIC/CCDJ
Ottawa, Ontario

Professeur Roger Bilodeau
École de droit
Unviersité de Moncton
Moncton (Nouveau-Brunswick) E1A 3E9

M^{e} Yvon Blais
Les éditions Yvon Blais
430, rue St-Pierre
Montréal (Québec) H2Y 2M5

Professor Marie-Ann Bowden
College of Law
University of Saskatchewan
Saskatoon, Saskatchewan
S7N 0W0

Gérard Brière
IST Informathèque
1611 est, boulevard Crémazie
Montréal (Québec) H2M 2P2

Michelle Brûlé
(Staff/personnel)
CLIC/CCDJ
Ottawa, Ontario

Michael Bunn
Richard De Boo Publishers
81 Curlew Drive
Toronto, Ontario
M3A 3P7

Yvan Caron
Directeur général des publications gouvernementales
Éditeur officiel du Québec
1279 ouest, boulevard Charest, 9e étage
Québec (Québec) G1N 4K7

John G. Chamberland
Ogilvy, Renault
1981 McGill College Avenue
Montreal, Quebec
H3A 3C1

Ken Chasse
Director of Research
The Research Facility
Ontario Legal Aid Plan
481 University Avenue, Suite 200
Toronto, Ontario
M5G 2G1

Mai Chen
Law Library
Queen's University
Kingston, Ontario
K7L 3N6

Michèle Clermont
(Staff/personnel)
CLIC/CCDJ
Ottawa, Ontario

Tannis Cohen
Ministry of the Attorney General
18 King Street East, 4th Floor
Toronto, Ontario
M5C 1C5

Judge Peter Coulson
Provincial Court of Ontario
Criminal Division
41 Dundas Street West
P.O. Box 386
Napanee, Ontario
K7R 1A6

Anne Crocker
Law Library
University of New Brunswick
Bag Service #44999
Fredericton, New Brunswick
E3B 6C9

Gina Cullen
(Staff/personnel)
CLIC/CCDJ
Toronto, Ontario

Claude Cyr
(Staff/personnel)
CLIC/CCDJ
Ottawa, Ontario

Joyce Dalmyn
Legal Library Resources
Manitoba Department of the Attorney General
2nd Floor, 405 Broadway Avenue
Winnipeg, Manitoba
R3C 3L6

Marie DeYoung
Library
Nova Scotia Department of the Attorney General
P.O. Box 7
Halifax, Nova Scotia
B3J 2L6

Rachel Didier
Hydro-Québec
75 ouest, boulevard Dorchester
9e étage
Montréal (Québec) H2Z 1A4

James R. Donovan
(Guest Speaker/conférencier invité)
Director of Data Systems
United States Supreme Court
#1 First Street North East
Washington, D.C. 20543
U.S.A.

Lise Dugas
(Staff/personnel)
CLIC/CCDJ
Ottawa, Ontario

John Edmiston
Carswell Legal Publications
2330 Midland Avenue
Agincourt, Ontario
M1S 1P7

Elizabeth Ellis
Goodman and Carr
2300 - 200 King Street West
Toronto, Ontario
M5H 3W5

Martin Felsky
(Panelist/paneliste)
(Staff/personnel)
CLIC/CCDJ
Ottawa, Ontario

Michael Fitz-James
The Lawyers Weekly
Butterworths
2265 Midland Avenue
Scarborough, Ontario
M1P 4S1

Karen E. Flint
Carswell Legal Publications
800 - 615 MacLeod Trail South East
Calgary, Alberta
T2G 4T8

M. Anne Foster
(Panelist/paneliste)
Vice-President
Electronic Information Services
Canada Law Book
240 Edward Street
Aurora, Ontario
L4G 3S9

Elizabeth Fox
Law Library
Queen's University
Kingston, Ontario
K7L 3N6

Professor Robert T. Franson
(Moderator/animateur)
Faculty of Law
University of British Columbia
1822 East Mall
Vancouver, B.C.
V6T 1Y1

Deborah E. Fry
(Panelist/paneliste)
Associate Deputy Minister
Department of Justice
Government of Newfoundland
and Labrador
Confederation Building, East Block
P.O. Box 4750
St. John's, Newfoundland
A1C 5T7

Phillip W. George
Vice-President & General Manager
Western Legal Publications
301 - One Alexander Street
Vancouver, British Columbia
V6A 1B2

Pierre Girard
Directeur, services techniques
SOQUIJ
276, rue Saint-Jacques, pièce 310
Montréal (Québec)
H2Y 1N3

Ken Gourlay
Canadian Centre for Justice Statistics
19th floor, R.H. Coats Building
Tunney's Pasture
Ottawa, Ontario
K1A 0T6

James N. Grace
CCH Canada Limited
6 Garamond Court
Don Mills, Ontario
M3C 1Z5

Professor Balfour J. Halévy
Law Library
York University
4700 Keele Street
North York, Ontario
M3J 1P3

Jill Hamilton
Daley, Black & Moreira
Box 355
1791 Barrington Street
Halifax, Nova Scotia
B3J 2N7

Stephen Hanson
(Panelist/paneliste)
Senior Director of Communications
Canadian Bar Association
130 Albert Street, Suite 1700
Ottawa, Ontario
K1P 5G4

Wayne D. Hatt
Barrister & Solicitor
15132 Stony Plain Road, Suite 208
Edmonton, Alberta
T5P 3Y3

Mary Helleiner
Executive Director
Law Foundation of Nova Scotia
P.O. Box 325
Halifax, Nova Scotia
B3J 2N7

Gordon Henderson, Q.C.
(Panelist/paneliste)
Law Society of Upper Canada
c/o Gowling & Henderson
1400 - 160 Elgin Street
Ottawa, Ontario
K1N 8S3

Adrienne Herron
QL Systems Limited
1018 - 112 Kent Street
Ottawa, Ontario
K1P 5P2

Edward Hicks
Tax Court of Canada
Centennial Towers, 3rd Floor
200 Kent Street
Ottawa, Ontario
K1A 0M1

Lebby Hines
Vice President - Editorial
Butterworths
2265 Midland Avenue
Scarborough, Ontario
M1P 4S1

Peter Hoult
Canadian Institute
of Chartered Accountants
150 Bloor Street West
Toronto, Ontario
M5S 2Y2

Glen Howell
Law Society of Upper Canada
Osgoode Hall
Toronto, Ontario
M5H 2M6

Bob Huggins
(Panelist/panéliste)
Regional Sales Manager
Info Globe
165 Sparks Street, 3rd Floor
Ottawa, Ontario
K1P 5B9

Frank Iacobucci, Q.C.
(Guest Speaker/conférencier invité)
Deputy Minister of Justice
and Deputy Attorney General of Canada
Department of Justice - Canada
Justice Building, Room 346
239 Wellington Street
Ottawa, Ontario
K1A 0H8

Jennifer L. Jordan
Registrar
British Columbia Court of Appeal
The Law Courts
800 Smithe Street
Vancouver, British Columbia
V6Z 2E1

Michelle Juteau
Commission d'appel en matière
de lésion professionnelle
500 ouest, rue Sherbrooke, suite 350
Montréal (Québec) H3A 3C6

Kathy Kelso
Mead Data Central
200 King Street West, Suite 1901
Toronto, Ontario
M5H 3T4

Priscilla Kennedy
Parlee McLaws
Barristers and Solicitors
10405 Jasper Avenue, Suite 1800
Edmonton, Alberta
T5J 3N4

Hugh Lawford
(Panelist/panéliste)
President
QL Systems Limited
1 Gore Street
Kingston, Ontario
K7L 2L1

Martha Leger
The County of York Law Association
361 University Avenue
Toronto, Ontario
M5G 1T3

Jennifer Leslie
(Staff/personnel)
CLIC/CCDJ
Ottawa, Ontario

David C. MacDonald
Canada Systems Group
955 Green Valley Crescent
Ottawa, Ontario
K2C 3V4

Professeur Ejan Mackaay
(Panelist/paneliste)
Faculté de droit
Université de Montréal
C.P. 6128, Succursale A
Montréal (Québec) H3C 3J7

Professeur Pierre Mackay
Département des sciences juridiques
Université du Québec à Montréal
C.P. 8888, succursale "A"
Montréal (Québec) H3C 3P8

Judy D. MacLachlan
Borden & Elliot
250 University Avenue
Toronto, Ontario
M5H 3E9

George E. MacMillan
Prothonotary and Clerk of the Crown
Prince Edward Island Supreme Court
Box 2200, 42 Water Street
Charlottetown, Prince Edward Island
C1A 8B9

Lillian V. MacPherson
(Moderator/animateure)
Law Librarian
Weir Memorial Law Library
University of Alberta
Law Centre
Edmonton, Alberta
T6G 2H5

Bruce Mandeville
QL Systems Limited
411 Richmond Street East, Suite 101
Toronto, Ontario
M5A 3S5

Justice William Marshall
Newfoundland Supreme Court
Court of Appeal
Duckworth Street
St. John's, Newfoundland
A1C 5M3

Anne-Marie Mayotte
(Staff/personnel)
CLIC/CCDJ
Ottawa, Ontario

Michael J. McGuire
University of New Brunswick
Law Library
Bag Service #44999
Fredericton, New Brunswick
E3B 6C9

Briand McInnes
Alberta Department of the
Attorney General
9833 - 109 Street
Edmonton, Alberta
T5K 2E8

Me Jean McNicoll
McNicoll et Parent
1175, avenue Lavigerie, pièce 300
Sainte-Foy (Québec) G1V 4P1

Paul D. McPhie
Canadian Centre for Justice Statistics
19th floor, R.H. Coats Building
Tunney's Pasture
Ottawa, Ontario
K1A 0T6

Ofelia Meza
Bibliothèque de droit civil
Université d'Ottawa
57 Copernicus, 4e étage
Ottawa (Ontario)
K1N 6N5

Mr. Doug Moen
Coordinator, Legislative Services
Public Law & Policy
Department of Justice
8th floor, 1874 Scarth Street
Regina, Saskatchewan
S7P 3B7

Raymond Moore
Legislative Counsel
Department of Justice
P.O. Box 1628, 42 Great George Street
Charlottetown, Prince Edward Island
C1A 7N3

Stuart Morrison
Vice-President
Marketing and Sales
Canada Law Book Inc.
240 Edward Street
Aurora, Ontario
L4G 3S9

Anne Morrison
Reference Librarian
Faculty of Law Library
University of Toronto
Toronto, Ontario
M5S 2C5

Linda Morrison
British Columbia Courthouse
Library Society
800 Smithe Street
Vancouver, B.C.
V6Z 2E1

Janice Munro
Richard De Boo Publishers
81 Curlew Drive
Toronto, Ontario
M3A 3P7

Me Norman Naud
Directeur du service de la jurimétrie
Commission de refonte des lois
et des règlements pour le ministère
de la Justice
Gouvernement du Québec
1200, route de l'Église, 4e étage
Sainte-Foy (Québec) G1V 4M1

Patricia Northey
Goodman & Goodman
Barristers & Solicitors
20 Queen Street West, Suite 3000
Toronto, Ontario
M5H 1V5

Elizabeth Page
Ontario Law Reform Commission
18 King Street East, 15th Floor
Toronto, Ontario
M5C 1C5

Suzanne Paquet
(Panelist/panéliste)
Directrice générale
SOQUIJ
276, rue St-Jacques, pièce 310
Montréal (Québec)
H2Y 1N3

Catherine Parker
(Staff/personnel)
CLIC/CCDJ
Ottawa, Ontario

Pierre-François Payette
Étudiant
École du Barreau du Québec
a/s 430 Willowdale, n^{O} 23
Outremont (Québec) H3T 1H3

Mona Pearce
Head, Legal Information Services
Department of Justice
Government of Newfounland
and Labrador
Confederation Building
St. John's, Newfoundland
A1C 5T7

Alan D. Reid, Q.C.
Gowling & Henderson
1400 - 160 Elgin Street
Box 466, Station "A"
Ottawa, Ontario
K1N 8S3

Christine Reinhardt
Senior Editor
Federal Court Reports
Office of the Commissioner for
Federal Judicial Affairs
110 O'Connor Street, 11th Floor
Ottawa, Ontario
K1A 1E3

Michel Ricard
Responsable de la bibliothèque
Direction générale des affaires
législatives
Ministère de la Justice
Gouvernement du Québec
1200, route de l'Église, 4^{e} étage
Sainte-Foy (Québec) G1V 4M1

Justice K. Peter Richard
(Panelist/panéliste)
Supreme Court of Nova Scotia
Trial Division
The Law Courts
P.O. Box 2314
Halifax, Nova Scotia
B3J 3C8

Ruth Rintoul
QL Systems Limited
430 - 2021 Brunswick Street
Halifax, Nova Scotia
B3K 2Y5

Gary Rodrigues
(Panelist/panéliste)
Vice-President and Executive Editor
Carswell Legal Publications
2330 Midland Avenue
Agincourt, Ontario
M1S 1P7

Professor Marianne Rogers
Law Library
York University
4700 Keele Street
North York, Ontario
M3J 1P3

Me Anne Roland
(Panelist/panéliste)
Arrêtiste en chef
Recueil des arrêts de la Cour suprême
Cour suprême du Canada
Édifice de la Cour suprême
Ottawa (Ontario)
K1A 0J1

Joel Saltsman
Carswell Legal Publications
1610 - 85 Albert Street
Ottawa, Ontario
K1P 6A4

Richard Scott
Mockler, Allen & Dixon
P.O. Box 1388
Fredericton, New Brunswick
E3B 5E3

Shirley A. Scott
Director of Research
Analyticom
566 Jones Avenue
Toronto, Ontario
M4J 3H1

Lillian Simkins
QL Systems Limited
1 Gore Street
Kingston, Ontario
K7L 2L1

Mary Jane Sinclair
Supreme Court of Canada
Library
Supreme Court Building
Ottawa, Ontario
K1A 0J1

Stephen J. Skelly, Q.C.
Senior Assistant Deputy Minister
Department of Justice - Legal Services
Room 301, Justice Building
239 Wellington Street
Ottawa, Ontario
K1A 0H8

Peter Strong, Q.C.
O'Dea, Strong, Earle
P.O. Box 5955
319 Duckworth Street
St. John's, Newfoundland
A1C 5X4

Professor Chin-Shih Tang
University of Ottawa
Common Law Library
57 Copernicus Street
Ottawa, Ontario
K1N 6N5

Guy Tanguay
Bibliothécaire
Bibliothèque de droit
Université de Sherbrooke
Sherbrooke (Québec) J1K 2R1

Jeannie Thomas
Executive Secretary
Canadian Judicial Council
130 Albert Street, Suite 717
Ottawa, Ontario
K1A 0W8

Denis Turcotte
Ministère des communications
Gouvernement du Québec
220 Grande Allée est, bureau 917
Québec (Québec) G1R 2J1

Elizabeth Turgeon
Maritime Law Book Ltd.
P.O. Box 302
Fredericton, New Brunswick
E3B 4Y9

Gaylord Watkins
Blake, Cassels & Graydon
Box 25, Commerce Court West
Toronto, Ontario
M5L 1A9

William Wendt
Federal Court of Canada
Supreme Court Building
Ottawa, Ontario
K1A 0H9

Robert Willard
Mead Data Central
P.O. Box 933
Dayton, Ohio 45401
U.S.A.

Bill Williamson
Director - Court Services
Department of Justice
Government of Yukon
Box 2703
Whitehorse, Yukon
Y1A 2C6

Bruce Willis
President
Law Society of Yukon
2093 Second Avenue
Whitehorse, Yukon
Y1A 1B5

Peter H. Wood, C.A.
Canadian Tax Online
Clarkson Gordon
P.O. Box 251
Royal Trust Tower
Toronto-Dominion Centre
Toronto, Ontario
M5K 1J7

Susan Zimmerman
Goodman & Goodman
Barristers & Solicitors
20 Queen Street West, Suite 3000
Toronto, Ontario
M5H 1V5